

**COMMERCE, JUSTICE, SCIENCE, AND RE-  
LATED AGENCIES APPROPRIATIONS FOR  
FISCAL YEAR 2016**

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**THURSDAY, MAY 7, 2015**

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

The subcommittee met at 10:32 a.m., in room SD-192, Dirksen Senate Office Building, Hon. Richard C. Shelby (Chairman) presiding.

Present: Senators Shelby, Alexander, Murkowski, Collins, Kirk, Boozman, Capito, Mikulski, Leahy, Feinstein, Coons, Baldwin, and Murphy.

**DEPARTMENT OF JUSTICE**

**STATEMENT OF HON. LORETTA E. LYNCH, ATTORNEY GENERAL**

**OPENING STATEMENT OF SENATOR RICHARD C. SHELBY**

Senator SHELBY. The subcommittee will come to order. Welcome to today's Commerce, Justice, and Science Subcommittee hearing examining the Department of Justice's fiscal year 2016 budget request.

First, let me welcome Attorney General Loretta Lynch to her first hearing before this subcommittee as she assumes the important responsibility of serving as our Nation's chief law enforcement officer. Welcome. As you begin your term as Attorney General, I believe that it is critical for you to return the Office of Attorney General to its constitutional purpose, which is to enforce the laws of the land, not the decrees and whims of the President.

The President has a White House counsel and plenty of attorneys arguing for his points of view on immigration, privacy, environmental regulations and more. The Attorney General, I believe, is the servant of the laws and citizens of the United States, not the President. I want to encourage you, Madam Attorney General, to consider this perspective carefully as you begin your service in a job that is critical to our democracy and to the rule of law.

I am deeply troubled by your support of the President's unilateral Executive actions, which provide amnesty to millions of illegal immigrants. Fortunately, the sweeping policy change undertaken without input from Congress has been stayed by the courts while a detailed review is conducted through the lens of the law and the Constitution. I hope that while this litigation is pending, progress will be made on key responsibilities that are within the Depart-

ment's jurisdiction, such as the Executive Office for Immigration Review. The President's 2016 budget seeks a funding level of \$482 million for this office, which is \$135 million above the current 2015 funding level. That is a big increase.

Significant improvements and reforms I believe are needed in our immigration court system in order to address the approximately 440,000 pending cases, some of which involve unaccompanied children. This backlog equates to a waiting period of several years before a case is heard. I believe, and I would hope you would agree, that this is unacceptable. While the needs are great for immigration courts, I have serious reservations about such a large funding increase when inefficiencies in management concerns have yet to be addressed within this office.

In your new role as the Attorney General of the United States, I am interested in hearing your suggestions and recommendations for prioritizing spending for the Department's most important and pressing missions involving national security, law enforcement, and criminal justice. The President's 2016 budget request for the Department of Justice totals \$29 billion, which is \$2 billion above the 2015 enacted level. And while funding for the Department of Justice is one of the Federal Government's highest priorities, we simply cannot afford such an increase in spending while operating under our current budget constraints, which puts a lid on all of us. I am concerned that even in the midst of the current fiscal climate, the President has proposed new grant programs and initiatives that would further stretch the Department's spending.

When it comes to law enforcement, your arrival at the Department at a critical time of needed leadership is welcomed. Since our hearing early this spring with the Department's law enforcement chiefs, we have seen the departures of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) Director and the Drug Enforcement Administration (DEA) Administrator. I hope that you will pay particular attention, Madam Attorney General, to these law enforcement agencies to ensure that they faithfully execute their duties during this time of change.

As an example, the Bureau of Alcohol, Tobacco, Firearms, and Explosives has a rule pending that would impose burdensome and, most people believe, unnecessary regulations regarding firearms that are lost or stolen in transit. However, the ATF's own statistics indicate that this number is insignificant and should not be a cause for concern. It certainly does not warrant, I believe, such encumbering regulations.

Oversight and accountability remain a top priority for this subcommittee. I have consistently expressed my displeasure to your predecessor regarding the Department's resistance to cooperating with the Department of Justice's Inspector General. I continue to hear from the Inspector General that this office—his office is having difficulties in obtaining the documents needed to do their job. I urge you to work with the Inspector General to make sure that he and his staff can successfully complete their reviews and audits of the Department of Justice.

I have outlined that the Department faces many challenges that will require fiscal support. The path for making meaningful progress runs through this subcommittee. I know that. As you

begin your tenure, Madam Attorney General, I want to express the subcommittee's hope that we will have a productive and constructive working relationship. Thank you, Madam.

Senator Mikulski.

STATEMENT OF SENATOR BARBARA A. MIKULSKI

Senator MIKULSKI. Thank you, Mr. Chairman, and I want to welcome the Attorney General. We are so glad that you were finally, finally, finally confirmed, and we could get beyond the petty politics that were the obstruction to that confirmation.

Before I go into my statement, though, I want to remind the subcommittee that yesterday was Senator Shelby's birthday, so could we join in a round of applause and wish him good health and blessings?

Senator SHELBY. Thank you.

Senator MIKULSKI. Let us hope that is not the high point of the hearing.

Madam Attorney General, you have had an eventful first 2 weeks in office. I know this is your very first congressional hearing since you have been confirmed, and we are looking forward to your testimony in terms of the Justice Department's needs for its 2016 budget. We are eager to hear from you about the many ongoing efforts at the many Justice Department agencies.

We want to, first of all, thank you, Madam Attorney General, for your work in coming to Baltimore and you were keen to coming into Baltimore. It was tremendously helpful to the mayor, to our police department, and, most of all, to the citizens to have the presence of the Justice Department. I personally want to thank you on behalf of the entire Maryland delegation for the professionalism of your team and, of course, yourself. I want to particularly acknowledge the Deputy Attorney General, Ms. Gupta, Mr. Ron Davis, the Director of the COPS Program, Mr. Grande Lum and your outstanding community relations team that came in and provided very crucial technical assistance during troubling times.

We were in Baltimore on Tuesday together as you listened to faith-based community leaders. You met with local officials, and even reached out to the Freddie Gray family. I will not be asking you any questions about the Freddie Gray investigation because we know it is an ongoing investigation.

You have gotten a request from the mayor about asking the Department of Justice to open a pattern and practice investigation into our police department. Later on this afternoon you will be getting a letter from the Maryland delegation supporting that request. That will go forward.

But I want to say this. In many cities throughout the country, and including my own town of Baltimore, and in communities primarily that have significant populations of color, there has been now a tattered, worn, and even broken trust between the community and the police department. We have got to restore that trust. We need the police department. We want to express our condolences to the people in the police department of Queens about the death of Officer Brian Moore, who was gunned down so brutally. But we also do need criminal justice reform, and we need it with an urgency of now.

I intend to ask questions about what you need in the way of resources to do the job that needs to be done, and also what reforms that are needed that are specific and are targeted. We are also joined today by an outstanding appropriator, but also the chair of the—I mean, the ranking member—of the authorizing committee on the Judiciary Committee, who has a long history in this. We are here to show that the American people have a Government on their side and to have a constitutional focus to what we do.

We have put money in the Federal checkbook—\$2.3 billion—for grant programs, targeted resources for police, local government, and communities. They range from more cops on the beat, to dealing with the rape kit backlog, to child abuse. Mayors have told us they need help getting more cops on the beat. We had \$180 million in doing that. We also wanted to help them be able to have the equipment that they needed, and there is \$376 million in grant programs.

Now we have to look at what does that mean. Some are crying out for body cameras. Is this just yet one more gimmick, or is it a crucial tool? Communities and non-profits want to help our young people, and this is why we will look for your thoughts either today or in the ongoing discussion on our juvenile justice programs, prevention, of intervention, who are helping with everything from delinquency prevention to the ongoing mentoring that we need.

As you know, many of our civil rights groups and community leaders have called out for criminal justice reform. We are looking forward to your advice to that, and we know that the Judiciary Committee will also be doing it. But I am going to have questions related to money and also training, that in other words, if you get the money, should you get training. I look forward to asking questions on whether if you get COPS money, Byrne grant money, and others, should there be required training on how to deal with racial and ethnic bias? What about the use of force? Should there be national standards that every department meets? What about body cameras? There are privacy concerns, there are storage concerns, many concerns. What should we do about it?

And last but not at all least, I do hope again for both this conversation and ongoing the examination of the so-called broken window policy. When the broken window policy was initiated by or talked about by an imminent sociologist, John Q. Wilson. I supported that policy, and I supported it as somebody who started her career as a social worker, that if you fix the broken window, that if you intervene with youth when they were doing minor offenses, we could intervene in a way that prevented them from growing up doing major offenses.

But while we were looking at the so-called minor criminals, we were going to fix the broken windows. We were going to deal with vacant houses. We were going to deal with the truancy problem. We were going to do this. But now what seems to happen is the policy has deteriorated to where we have stopped fixing the broken window and we have escalated the frisking. No more fixing, but lots of frisking, and that is what our folks feel. Last year, 120,000 police stops occurred in Baltimore. We are a population of 610,000. That is a lot. I do not know what the appropriateness of that is, but I think we need to look at it.

So today I sit here as the ranking member of the subcommittee that will fund your Department, and I assume my national responsibility. But I am also here for the 85,000 kids, all of whom that day of the disturbance went home peacefully. What can we do to help them? The 610,000 law abiding people in Baltimore who obeyed the law and helped to do that. So we look forward to working with you on what are the tools to restore confidence between our police and our community, but also put our arms around our young people and see what we can do to help them. And maybe when we fix a broken window, we have to fix the broken political process, and we have to get the job done.

Thank you, and I look forward to your testimony.

Senator SHELBY. Madam Attorney General, welcome to the subcommittee. Your written testimony will be made part of the record in its entirety. You proceed as you wish.

SUMMARY STATEMENT OF HON. LORETTA E. LYNCH

Attorney General LYNCH. Thank you, sir. Thank you, Mr. Chairman, and remind me to come around on your birthday another time. It is quite a celebration.

Well, good morning, Chairman Shelby, Vice Chairman Mikulski, and the other distinguished members of the subcommittee. It is indeed an honor to appear in front of you for the first time as the Attorney General. I look forward to working collaboratively with all of you today and in the days ahead as we seek to protect and to serve the American people together.

But I want to take a moment to extend a special thank you to Senator Mikulski for your leadership in the United States Senate over the last three decades, for your support of the Department of Justice and its employees, and for the extraordinary example of public service you have provided to all Americans, and especially to women. And I am honored to have the opportunity to work with you during your final 2 years in office.

Senators, as we approach National Police Week, which begins next week, it is fitting that we take a moment to consider the contributions and the needs of law enforcement—

Senator SHELBY. Madam Attorney General, would you mind pulling your mic just a little closer?

Attorney General LYNCH. Thank you, sir. Actually, sir, it seems to be fixed. Thank you, Mr. Chairman.

Senators, as I noted, National Police Week will begin next week, and at this particular time in history it is important that we take a moment to consider the contributions and the needs of our law enforcement officers across the country. Law enforcement is a difficult profession, but a noble one. And over the course of my career as a Federal prosecutor and as U.S. attorney for the Eastern District of New York, I have been privileged to work closely with truly outstanding public safety officials, and I have seen up close the dangers that they face every day.

As mentioned by Senator Mikulski, earlier this week Officer Brian Moore, a 25-year-old New York City police officer, died after being shot while trying to question a man in Queens. And just 2 days ago, Sergeant Greg Moore of Coeur d'Alene, Idaho was tragically gunned down, also while interacting with a suspicious indi-

vidual. The tragic loss of these brave individuals serves as a devastating reminder that our Nation's public safety officials put their lives on the line every day to protect people they have often never met. Their exemplary work is the foundation of the trust that must exist between law enforcement officers and the communities that we all serve. And that is why when there are allegations of wrongdoing made against individual officers and police departments, the Department of Justice has a responsibility to examine the evidence and, if necessary, to help them implement change.

While I was in Baltimore on Tuesday, I met with the mayor, law enforcement officials, and community, faith, and youth leaders. I spoke with an officer who was injured amidst the violence, and I heard a number of ideas regarding ways in which the Justice Department can continue assisting Baltimore as they work to recover from recent unrest. Although the city has made significant strides in their collaborative reform efforts with the Community-Oriented Policing Services Office, I have not ruled out the possibility that more may need to be done. And I assure you, Senators, that I am listening to all voices.

We are currently in the process of considering the request from city officials and community and police leaders for an investigation into whether the Baltimore City Police Department engaged in a pattern or practice of civil rights violations. And I intend to have a decision in the coming days.

Now, the situation in Baltimore involves a core responsibility of the Department of Justice, not only to combat illegal conduct when it occurs, but to help prevent the circumstances that give rise to it in the first place. Going forward, your support of the Department and of our funding in the fiscal year 2016 President's budget will enable us to build on our successes and make further progress in the mission with which we are entrusted.

I am pleased to say that this budget request is in line with my highest priorities as Attorney General: safeguarding our national security, defending the most vulnerable among us, and strengthening relationships of trust and collaboration between law enforcement officers and the communities that we service. Now, of course, our most important objective must continue to be protecting the American people from terrorism and other threats to our national security.

As you know, under my predecessor, Attorney General Eric Holder, the Department of Justice engaged in essential efforts to counter violent extremism and domestic radicalization, to strengthen counterterrorism measures, to promote information sharing and collaboration with the intelligence community, and to provide training and technical assistance to our foreign partners. We must advance this progress on all fronts. We must prepare to meet new and emerging threats and vigorously defend American citizens at home and abroad.

The President's budget will strengthen our national security efforts by investing a total of \$4.6 billion in the Department's cutting edge counterterrorism and national security programs. This total includes \$775 million, an increase of \$27 million, for addressing cyber crimes and enhancing the security of information networks. In an age in which criminals have the ability to threaten our na-

tional security and our economic wellbeing from far beyond our borders, it is critical that we expand our focus and strengthen our defenses to protect all Americans from exploitation and abuse.

I firmly believe that cybersecurity must be among the top priorities for the Department of Justice. This important funding will allow us to build on the outstanding work of the Department in identifying new threats, thwarting attempted intrusions, and bringing the perpetrators of wrongdoing, wherever they may hide, to justice.

As the Department works to safeguard American security, we are equally committed to upholding American values, including the protection of our most vulnerable populations. The fiscal year 2016 budget would provide \$103 million in new civil rights investments to address hate crimes, sexual violence, and human trafficking, an area that warrants our renewed focus and redoubled effort. It would allocate \$124 million to improve the efficiency of our immigration court system by supporting additional immigration judge teams and Board of Immigration Appeals attorneys, by expanding the successful Legal Orientation Program, and by allowing for additional legal representation for unaccompanied children.

And it would deliver \$247 million in program increases for the Smart on Crime Initiative, which was designed to address America's overreliance on incarceration while reducing recidivism, and deploying law enforcement resources more effectively. By all available evidence, this program has been a major success as well as an area of bipartisan cooperation and agreement. The requested funds in this year's budget will allow us to extend this critical work and to amplify our shared commitment to a fair, efficient, and effective criminal justice system.

The Department has made it clear, and I firmly support, that this innovative approach does not in any way lessen our resolve to combat violent crime, drug trafficking, and other violations of Federal law. We remain determined to vigorously investigate and prosecute criminal activity. The President's budget supports our goals in that regard by appropriating an additional \$43 million for us to investigate and hold accountable those who break Federal laws and harm innocent citizens, from illegal firearms and drug traffickers, to perpetrators of healthcare scams and financial fraud.

In all our efforts, we intend to work closely not only with this distinguished body, but also with our law enforcement partners on the front lines across the country. And that is why the President's budget allocates an additional \$154 million to support our State, local, and tribal partners in their own efforts to counter violent extremism, to hire and retain officers, to serve the victims of crime, to research best practices, improve indigent defense, and expand reentry programs. This appropriation includes nearly \$95.5 million for the Community-Oriented Policing Services Hiring Program, \$35 million for tribal law enforcement, and \$20 million for the Collaborative Reform Initiative, a recently developed program that facilitates collaborations between the COPS Office and law enforcement agencies seeking assistance on a wide variety of criminal justice issues, from use of force practices and the deployment of crisis intervention teams, to building trust with the members of their communities.

As we have seen even in recent days, programs that establish trust and improve collaboration are essential to carrying out our law enforcement duties effectively and to the overall safety of the American people. In the days ahead, I hope and I fully intend to bolster our efforts in that area. I am eager to work with this subcommittee and with Congress to build on the many achievements of the Department of Justice and to secure the timely passage of the President's budget, which provides \$28.7 billion in discretionary resources for the Department, including \$26.3 billion for vital Federal programs and \$2.4 billion for State, local, and tribal assistance programs.

As a former United States attorney who saw firsthand, who lived through the unsustainability of sequester, I can tell you that this level of support is necessary to ensure that we can continue to protect the American people and effectively serve the priorities of the United States of America.

Mr. Chairman, ranking member of the subcommittee, I thank you once again for the opportunity to meet with you here today and to discuss the work of the Department, and I am happy to answer questions that you may have. Thank you for your time.

[The statement follows:]

PREPARED STATEMENT OF HON. LORETTA E. LYNCH

Good morning, Chairman Shelby, Vice Chairwoman Mikulski, and other distinguished members of the subcommittee. It is an honor for me to appear before you today for the first time as Attorney General of the United States. I want to thank you for the trust you have placed in me through your confirmation of my nomination. Throughout my tenure as Attorney General, I will strive to uphold that trust to protect and defend our Constitution, to safeguard our people, and to stand as the leader and public servant that they deserve. I look forward to working with this subcommittee, the United States Senate, and the entire United States Congress to protect and serve the American people. Vice Chairwoman Mikulski, I am particularly honored to work with you in your last 2 years as a Senator. I would like to thank you personally for your leadership, example, and support to the Department of Justice and the Nation.

In my new role as Attorney General, I am here to highlight the President's fiscal year 2016 budget request for the U.S. Department of Justice (the Department or DOJ). While this budget pre-dates my arrival as Attorney General, I am pleased to say that it is in line with my highest priorities for the agency: the safety of our citizens and our national security; protection of the most vulnerable among us; and strengthened relationships between America's brave law enforcement officers and the communities they are entrusted to serve.

Continuing our focus on the *Smart on Crime* initiative is critical to achieving these priorities because, while the aggressive enforcement of Federal criminal statutes remains necessary, we cannot prosecute and incarcerate our way to a safer Nation. We must reduce our prison populations by better preventing and deterring crime, improving charging and sentencing, and enhancing rehabilitation and reentry programs that reduce recidivism. We must also invest in improving relationships between communities and the criminal justice system in order to restore faith in our systems.

As we convene this morning, I know we're all still mindful of the situation in Baltimore. I assure you that in the days ahead, the Justice Department will continue to work to ensure justice, restore calm, and resolve unrest.

This budget will further these important goals and allow the dedicated employees of the Department to continue the great work they do every day to reduce crime, reform our criminal justice system, and ensure our safety and security.

Thankfully, as a result of bipartisan efforts, DOJ has been able to implement a process to backfill critical vacant positions resulting from the Department-wide hiring freeze between 2011 and 2014. DOJ brought on approximately 2,500 staff in fiscal year 2014 and we hope to bring on 1,500 more in fiscal year 2015. The fiscal year 2016 budget provides funding to both sustain these employees and provide for an additional 1,600 positions.

The fiscal year 2016 budget requests \$28.7 billion in discretionary resources for the Department, including \$26.3 billion for Federal programs and \$2.4 billion for State, local, and tribal assistance programs. This represents a 4.8 percent increase over the comparable fiscal year 2015 enacted funding level. The key funding priorities include:

- Defending U.S. citizens from national security threats.*—The budget invests an additional \$107 million to develop the Department’s capacity in critical national security areas including: countering violent extremism and domestic radicalization to violence; counterterrorism; cybersecurity; information sharing and collaboration with the Intelligence Community; and training and technical assistance for our foreign partners.
- Upholding civil and constitutional rights.*—The budget includes \$103 million in new investments to better address human trafficking, hate crimes, and sexual violence in our primary and secondary schools as well as higher education. The additional funds would expand civil and criminal enforcement efforts to ensure the rights of our Nation’s most vulnerable populations.
- Investing in improvements to our criminal justice system.*—The budget invests \$247 million in the *Smart on Crime* initiative to better deter crime and protect the public. The initiative focuses resources on the most important law enforcement priorities, reduces disparate impacts of the criminal justice system on vulnerable communities, and considers alternatives to incarceration for low-level, non-violent offenses in order to reduce taxpayer expense and prevent recidivism.
- Maintaining safe and secure Federal prisons.*—In addition to \$146 million for the Bureau of Prison (BOP) included in the *Smart on Crime* initiative above, the budget invests an additional \$71 million to increase staffing at high security prisons to improve officer and inmate safety; increase medical beds for severely ill inmates; and undertake essential rehabilitation, modernization, and renovation of aging BOP facilities.
- Improving the efficiency of the immigration court system.*—The budget invests \$126 million to support additional Immigration Judge Teams and Board of Immigration Appeals attorneys, to expand the successful Legal Orientation Program, to allow for greater representation of unaccompanied children, to modernize information and data sharing systems to improve the efficiency of processing case materials, and to keep pace with workload demands associated with civil cases.
- Improving responses to violent crime, illicit drugs, and healthcare fraud.*—Simply maintaining existing capacity is not sufficient. The budget requests \$43 million in additional investments to investigate and punish those who break Federal laws and harm innocent citizens. This includes preventing the illegal use and trafficking of firearms, addressing the increase in heroin and other emerging drug trends, thwarting international drug trafficking organizations, addressing international piracy of intellectual property, and combating healthcare fraud and wildlife trafficking.
- Enhancing State, local, and tribal law enforcement programs.*—The budget requests \$154 million in net discretionary program increases to support the ability of our State, local, and tribal partners to counter violent extremism, hire officers, better serve victims of crimes, conduct research to build evidence on best practices, improve indigent defense, and expand re-entry programs.
- Addressing gaps in critical Department infrastructure.*—The budget invests \$27 million in the renovation and repair of prisoner holding spaces in Federal courthouses, Department-wide information technology improvements, and oversight of Department policies and procedures.

PROTECTING THE AMERICAN PEOPLE FROM TERRORISM AND OTHER NATIONAL SECURITY  
THREATS

Defending U.S. citizens from both internal and external threats remains the Department’s highest priority. The Department made significant achievements in this area in fiscal year 2014. The Department’s counterterrorism investigations disrupted 214 terrorist threats and the FBI investigated approximately 14,000 national security cases. The FBI, DEA, ATF, Department of Homeland Security, U.S. Secret Service, and the U.S. Postal Inspection Service successfully coordinated on many efforts, including the arrest of multiple vendors involved in online forums, such as Silk Road 2.0, which were trafficking counterfeit currency, narcotics, firearms, explosives, and illicit documents.

The fiscal year 2016 budget will enable the Department to continue meeting the challenging and ever-changing threats to our national security by providing a total of \$4.6 billion in resources, including \$107 million in program increases for four crit-

ical national security issues: (1) countering violent extremism and domestic radicalization to violence; (2) cybersecurity; (3) information sharing and collaboration with the Intelligence Community; and (4) training and technical assistance for our foreign partners.

To counter violent extremism and domestic radicalization to violence, the fiscal year 2016 request provides \$15 million to allow the Department to foster community-led efforts through funding from the Office of Justice Programs (OJP) and the Community Oriented Policing Services (COPS) to State, local, and tribal law enforcement agencies and community organizations nationwide. At the National Security Division (NSD), \$1 million in additional resources would support its investigative and prosecutorial efforts focused on homegrown violent extremists intent on attacking the United States.

The fiscal year 2016 budget request also includes \$775 million in total for cyber-related activities that address cybercrimes and defend the security of critical information networks. This request includes increases of \$27 million for key program enhancements to the FBI, NSD, U.S. Attorneys, and the Criminal Division. The FBI will continue improving its cyber collection and analysis, while extending its centralized cyber capabilities to the field through its Next Generation Cyber initiative. NSD will bring on additional attorneys to help with prevention, detection, investigation and prosecution, and vulnerability management, as well as policy development and program oversight related to cyber threats to national security. To prosecute increased cybercrimes across the country, the U.S. Attorneys require additional attorneys that specialize in cybercrimes, as well as increased training on digital evidence. Enhancements to the Criminal Division would increase the Division's capacity in six key areas: training for attorneys on cybercrime and digital evidence; enhancing digital forensic capacity; providing technical and legal expertise; improving information sharing efforts with the private sector; building and strengthening relationships with foreign law enforcement partners, and developing cyber policy. Finally, in order to protect the Department from increased cyber threats and intrusions, the fiscal year 2016 budget invests in additional cybersecurity tools and IT infrastructure maintenance and improvements.

Information sharing and collaboration with the Intelligence Community is critical for the success of the Department's efforts to ensure our national security. A program increase of \$3.2 million for NSD will enhance its court-authorized intelligence collection efforts and increase its oversight of information used during national security investigations and prosecutions. Increases for the FBI and DEA will allow both agencies to improve their information technology systems.

Because crime increasingly transcends national borders, the United States must improve its coordination with foreign partners. The Mutual Legal Assistance Treaty (MLAT) is the mechanism that enables the provision of evidence and extradition of persons across borders. Improvements are still needed to reduce the backlog in MLAT requests from our foreign partners and improve MLAT response time. As of January 2015, the Office of International Affairs (OIA) in the Criminal Division had a backlog of over 11,500 pending cases. The Department is working to fully replace its existing, antiquated IT system with an anticipated completion date of mid-2016. The Department has also begun to gather better data from its existing case management tool, such as timelines for the processing of requests, which will generate useful metrics to evaluate the execution of MLAT requests. OIA has made significant progress in filling attorney vacancies that accumulated during the Department's hiring freeze. However, without the \$32 million investment for personnel and technological resources requested in the fiscal year 2016 budget, OIA will not be able to accomplish its plans for centralization or process improvement.

Finally, the fiscal year 2016 budget also invests additional resources for the International Criminal Investigative Training Assistance Program (ICITAP) and the Office of Overseas Prosecutorial Development Assistance and Training (OPDAT). Both agencies further U.S. national security interests by helping stop terrorism and crime before it can reach our shores. ICITAP and OPDAT costs have been generally funded by the State Department, however, as the issues to be addressed grow, so has the need for steady base resources within the Department's budget.

#### PROTECTING CIVIL RIGHTS

The Department must protect not only American citizens but also American values. Accomplishing the Department's mission to uphold the civil and constitutional rights of all Americans, particularly the most vulnerable, requires resources to investigate, litigate, and conduct outreach and technical assistance. As such, the Department is requesting program increases totaling \$103 million across several components. For the Civil Rights Division (CRT), the fiscal year 2016 request includes

total enhancements of \$16 million to expand efforts associated with human trafficking, voting rights, and enforcement of Title IX and other laws that address discrimination against students on the basis of sex. The request for CRT also includes additional resources to protect servicemembers and individuals in institutions, and to expand efforts to ensure that all communities have effective and democratically accountable policing. An enhancement of \$7 million would allow for new Assistant U.S. Attorneys to focus exclusively on civil rights law enforcement and work in tandem with CRT on the more complicated and time consuming cases, such as sex and labor trafficking cases.

The Community Relations Service (CRS) has been engaged in forging constructive partnerships to prevent and relieve tensions between law enforcement and communities around the country, including Ferguson, New York City, and most recently Baltimore. The fiscal year 2016 request includes an increase in funding for CRS to help prevent hate crimes and engage local communities and law enforcement departments in dispute resolution activities. Funding will also support the goals of the President's My Brother's Keeper Initiative, which seeks to address persistent opportunity gaps faced by boys and young men of color to ensure that all young people in this country can reach their full potential. The Department requests \$78 million in grant program increases to: improve the public's access to counsel and legal assistance in State, local, and tribal courts and juvenile justice systems; implement the recommendations of the White House Task Force to Protect Students from Sexual Assault; and assist law enforcement agencies on criminal justice issues, including use of force practices and the deployment of crisis intervention teams.

#### BECOMING SMARTER ON CRIME

In early 2013, the Justice Department launched a comprehensive review of the criminal justice system in order to identify reforms that would ensure Federal laws are enforced fairly and, in an era of reduced budgets, efficiently. As part of this review, the Department studied all phases of the criminal justice system, including charging, sentencing, incarceration, and reentry, to identify the practices that are successful at deterring crime and protecting the public. The *Smart on Crime* initiative was created to focus Federal resources and place the harshest sentences on the most violent offenders rather than prioritizing the sheer number of prosecutions. Considering alternatives to incarceration for low-level, non-violent offenses strengthens our justice system and places a lower financial burden on the budget so that funds can be spent on essential public safety priorities. The *Smart on Crime* initiative will also help contain incarceration costs over the long term by facilitating inmates' successful transition back into society.

Of the \$247 million requested in program increases for the *Smart on Crime* initiative in fiscal year 2016, \$146 million is dedicated to re-entry and recidivism reducing programs at the Bureau of Prisons (BOP). More specifically, the funding would expand sex offender management programs, mental health staff, cognitive behavioral treatment, vocational programs, as well as medically assisted treatment programs for individuals in the justice system dependent on opioids. The request also includes funding for a new, broader reentry program that reaches out to offenders' children and families to strengthen familial bonds, which are critical for helping inmates transitioning back home. At U.S. Attorneys' Offices, \$25 million would support dedicated prevention and reentry coordinators in all 94 districts. OJP will add new resources to its Residential Substance Abuse Treatment program and Second Chance Act Program so that State, local, and tribal governments can address the critical needs of the sub-population of offenders who most need the services and drive most jurisdictions' recidivism rates. Enhancements to OJP's Smart Policing and Smart Prosecution programs encourage the development of data-driven strategies by local law enforcement and prosecutors to address specific crime problems more effectively and economically in their jurisdictions.

#### MAINTAINING SAFE AND SECURE PRISON AND DETENTION FACILITIES

To increase safety for officers and inmates, the fiscal year 2016 budget requests \$71 million in program enhancements. For BOP's 17 high security institutions, \$32 million would ensure that there are two correctional officers on duty in each housing unit at all times. The Department is requesting \$5 million to convert Federal Correctional Institution Fort Worth to a Medical Referral Center that will house and treat severely ill inmates currently housed in community hospitals. Finally, the request increases funding for BOP to undertake essential rehabilitation, modernization, and renovation of BOP institutions, one third of which are 50 years old or older. This maintenance and repair will preserve our capital investments and ensure sufficient security within these aging institutions.

## ENFORCING IMMIGRATION LAWS

The Department plays an integral role in the immigration system by ensuring the fair, expeditious, and uniform application of the Nation's immigration laws. The Department's Executive Office for Immigration Review (EOIR) oversees the immigration court and Board of Immigrant Appeals. In recent years, EOIR has sought to keep pace with the rising number of immigration cases, in order to maintain the efficiency and effectiveness of its immigration enforcement, adjudication, and detention programs.

To process the increasing workload and improve the efficiency of the immigration court system, the Department requests an increase of \$124 million to support an additional 55 Immigration Judge (IJ) Teams and 28 Board of Immigration Appeals attorneys and provide for other improvements to the immigration system. This enhancement will help IJ Teams and attorneys adjudicate rising immigration case-loads resulting from the increase in Southwest Border crossings. Also included in this program increase is \$50 million to expand legal representation for unaccompanied children and \$10 million to improve efficiencies in immigration court proceedings by expanding the Legal Orientation Program.

The Department's Civil Division, Office of Immigration Litigation (OIL), also plays a crucial role in upholding the immigration enforcement actions of DHS and EOIR. OIL defends the Government in district court cases and challenges to removal orders filed in circuit courts. The Department requests an increase of \$1 million to address the growth in class-action immigration cases.

## IMPROVING RESPONSES TO VIOLENT CRIME, ILLICIT DRUGS, AND HEALTH CARE FRAUD

The Department's mission and responsibility is to investigate and punish those who break Federal laws and harm innocent citizens. Continued investments are needed to strengthen the Department's ability to uphold those commitments and obligations. Simply maintaining existing law enforcement capacity is not sufficient. For fiscal year 2016, the Department requests \$43 million in additional investments to address violent crime, illicit drugs, and healthcare fraud.

Investments to combat violent crime include resources for the United States Marshals Service (USMS) to investigate violations of the Adam Walsh Act and assists State, local, tribal, and territorial jurisdictions in locating and apprehending an estimated 100,000 non-compliant sex offenders. Funding is also requested to expand officer safety training for USMS operational officers and task force officers.

The budget supports a strong response to the increase in heroin abuse and other emerging drug trends. This includes additional resources for DEA's information sharing efforts to thwart international drug trafficking organizations as they seek to exploit financial markets, intellectual property, the energy sector, as well as other legitimate sectors and markets. The request also includes resources to pay for State and local clandestine laboratory cleanup program.

For the Department's litigating divisions, the budget requests additional resources to enforce laws that address international piracy of intellectual property, healthcare and financial fraud, as well as fraud against the military. Each year, industry loses hundreds of billions of dollars due to counterfeiting and global trade of illegitimate goods. In recent years, the Criminal Division has returned billions of dollars to the Federal Government from its efforts to combat fraud. The Civil Division not only recovers billions of dollars for taxpayers; it also saves billions by defending the U.S. against lawsuits. In fiscal year 2014 alone, the Civil Division defended against suits in which approximately \$100 billion was at issue. To continue successfully safeguarding taxpayer dollars and protecting the healthy, safety and economic security of the American people, the Civil Division needs additional staff to handle the increasing number of cases they receive. Finally, \$2 million would support the multinational efforts of the Environment and Natural Resources Division to combat wildlife trafficking and related transnational organized crime activities.

## INVESTING IN STATE, LOCAL AND TRIBAL ASSISTANCE PROGRAMS THAT WORK

Crime and the ability to respond effectively to it continue to be major challenges for many communities across the country. The fiscal year 2016 budget maintains the Department's commitments to State, local, and tribal partners without reducing the Department's Federal operational role. The fiscal year 2016 discretionary a request for State, local, and tribal law enforcement assistance is \$2.4 billion with a net discretionary increase of \$154 million. This includes a program increase of \$15 million to implement the administration's Countering Violent Extremism Initiative that will address domestic terror incidents and the emergence of groups attempting to recruit Americans to take part in ongoing conflicts in foreign countries. The budg-

et also targets \$97 million for the President's new Community Policing Initiative to build and sustain trust between law enforcement and the people they serve. Both the COPS and OJP budgets include enhancements to support these two initiatives.

The fiscal year 2016 request for OJP supports a net increase of \$30 million in grant funding for indigent defense, Second Chance Prisoner Reentry, Justice Reinvestment, and juvenile justice programs. The budget includes the mandatory grants of \$1 billion for the Crime Victims Fund and \$100 million for the Public Safety Officer's Death Benefits.

The fiscal year 2016 request for COPS provides an increase of \$95.5 million, including \$69.5 million for the COPS Hiring Program, with \$5 million targeted towards improving diversity in law enforcement, and \$35 million for Tribal Law Enforcement. The request includes \$20 million as a separate line-item for the Collaborative Reform Initiative which enables the COPS Office to partner with law enforcement agencies that may need assistance on a wide variety of criminal justice issues that range from use-of-force practices and the deployment of crisis intervention teams, to building trust with the communities served. Again, it is efforts like these that may help to prevent situations like those in Ferguson and Baltimore.

The fiscal year 2016 request for the Office on Violence Against Women (OVW) includes a total of \$50 million in enhancements. Protecting students from sexual assault is a top priority for this administration, and the budget reflects this by including a \$14 million increase to the Campus Violence Program to better meet the need on college campuses. Other increases include \$5 million for a new Tribal Jurisdiction program, \$21 million for a new program to improve law enforcement and prosecutorial response to sexual assault, and \$10 million for enhancements to the Legal Assistance to Victims Program.

#### ADDRESSING GAPS IN CRITICAL DEPARTMENT INFRASTRUCTURE

In order to maintain an effective and efficient organization, the Department must invest in its physical and non-physical infrastructure. The infrastructure resources requested for fiscal year 2016 are focused in three categories: information technology (IT) improvements; facility construction and maintenance; and oversight functions.

The resources requested for facility construction and maintenance total \$5 million to renovate and repair USMS prisoner holding cells in Federal courthouses. This funding will significantly reduce the repair backlog so the USMS can better provide for the safety and security of judges, court personnel, and others in Federal court facilities.

For IT improvements, \$15 million is requested for the Department to continue its data center consolidation efforts, provide the public greater access to the Department's data, and increase automated litigation services. With every passing year, a healthy IT infrastructure becomes more critical to ensuring that DOJ operations remain effective. Consolidation of data centers is one of the ways the Department is saving and avoiding costs while increasing data security.

Finally, \$10 million is requested to enhance oversight functions such as increased funding for contract oversight by the Inspector General and increased staff for Department leadership to strengthen policy analysis and compliance efforts.

#### CONCLUSION

Chairman Shelby, Vice Chairwoman Mikulski, and members of the subcommittee, it is my pleasure to highlight recent DOJ successes as well as the resources identified for fiscal year 2016 to maintain and build upon such successes. The Department clearly understands the need for fiscal restraint and has achieved as many cost savings as possible without jeopardizing its mission. The increases requested in the President's budget are those necessary to address the most pressing criminal justice needs of our country. As my father always reminded me, we all gain the most when we act in service to others. It will be my honor to work together with each of you in service to the American people and in the spirit of mutual respect and Constitutional balance. I would be happy to answer any questions you may have.

#### IMMIGRATION

Senator SHELBY. Thank you, Madam Attorney General. In November of 2014, the President expanded immigration amnesty through Executive order in furtherance of his 2012 Executive order to people over the age of 30 and to new arrivals. It also allows about 4 million additional illegal immigrants, who have been in the country for 5 years and who are parents of U.S. citizens and legal

residents, to apply every 3 years for deportation deferrals. In January this year, you testified during your confirmation hearing that you believe that the President's Executive actions are legal and constitutional, even though the President stated on record many times that he did not believe he had the constitutional power to grant amnesty without authority from the Congress.

Why do you believe that the President's Executive actions granting amnesty to millions of illegal immigrants are legal and constitutional?

Attorney General LYNCH. Mr. Chairman, you certainly are focused on one of the most challenging issues facing our country today, how to deal with the immigration issue. As I indicated during my January testimony, as a career prosecutor and former U.S. attorney, I particularly focused on the prioritization of the removal of the most dangerous illegal immigrants from our country. With respect to that issue, I found that to be an imminently reasonable exercise of administrative and prosecutorial discretion.

With respect to the actions involving the issuance of deferrals to new members who would apply for that, I believe that matter is a subject that is under consideration by the courts. As you have noted, those actions have been enjoined. As I stated during those proceedings, I am committed to abiding by the injunction and certainly working with the Department of Homeland Security to ensure that the injunction is supported while it is pending.

Senator SHELBY. As you assume, and you have, the position of Attorney General, how will you, Madam Attorney General, enforce current immigration laws given your belief that the recent Executive actions trump existing laws? In other words, do all the Executive actions and presumptions there trump the laws of Congress? How do you rationalize that?

Attorney General LYNCH. Senator, I believe that our existing laws are a vital resource in dealing with the problem of both illegal immigration and as well as criminal activity that results from illegal immigration. In particular, the Department's own Executive Office of Immigration Review (EOIR) is charged with adjudicating various types of immigration violations. As you have noted, EOIR has suffered from a backlog of cases and inefficiencies that have delayed actions separate and apart from the President's new policies that has delayed actions for far too long. Within the new budget request, the Department would seek to hire additional immigration judges, 55 in total, to reduce this backlog.

But also, Senator, recognizing that we simply cannot wait for additional money, we are taking steps already to try and make the Executive Office of Immigration Review more efficient. Previous to my testimony, the judges have already worked to triage, so to speak, the types of cases that need to be adjudicated quickly. Judges have been reassigned and redeployed to handle the backlog of cases because we recognize that that is unsustainable. Separate and apart, of course, from the Executive Office of Immigration Review, as I am sure the subcommittee is aware, approximately 30 percent of Federal criminal cases that are brought by our U.S. attorneys across the country relate to immigration offenses.

So, Senator, separate and apart from the legal result or the court result of the November policies, the Department of Justice is mov-

ing forward both to prosecute criminal activity resulting from illegal immigration and to support the work of its Executive Office of Immigration Review, which we believe is vital.

#### FINANCIAL FRAUD

Senator SHELBY. I want to shift into another area of financial fraud. In one of your previous jobs, you were directly involved in several high profile financial fraud settlements during your tenure as the U.S. attorney for the Eastern District of New York. However, it is my understanding that not one of those settlements also involved a criminal prosecution. Why did you and the Department—I know you were not the Attorney General then; you were the U.S. attorney—not pursue criminal charges, and how could you enter into billion settlements sometimes with firms guilty of fraud, and yet never see fit to prosecute not one person for mortgage or financial fraud? And will that change now since you are the Attorney General? In other words, are people buying justice by settlement?

Attorney General LYNCH. Senator, with respect to the work with which I was proud to conduct as U.S. attorney regarding the Residential Mortgage-Backed Securities Initiative, my office was involved in two of the major settlements of that as well as other outstanding U.S. attorney's offices across the country. Throughout those investigations, the message from the leadership at the time, from all the U.S. attorneys working on that, and from myself to my team, the direction was that no entity is above the law, no individual is above the law, no one is too big or too powerful to jail or to fail.

But what the Department of Justice does in every case, Senator, is follow the evidence. We ascertain the best way of achieving legal compliance when there have been violations and providing redress to victims. We look carefully in every case, not just the residential mortgage-backed securities (RMBS) cases, but every case involving a financial institution where American citizens have lost hard-earned money to determine the best way to bring those wrongdoers to justice. And where the evidence leads us to find that we can prove beyond a reasonable doubt that there has been a criminal violation, we go in that direction.

And I would point you to the number of criminal fraud prosecutions brought by my office on behalf of the victims of Ponzi schemes, mortgage fraud schemes, and real estate schemes over the years involving hard-working Americans who were defrauded of their life savings. Where we find evidence that points toward civil liability, we pursue that. But I can assure you, Senator, that both in my prior position and going forward, I take very seriously the obligation to protect the American citizens from fraud of all types, and it is one of my highest priorities as Attorney General.

Senator SHELBY. But the standard threshold for a civil case is not as high as a criminal case, and neither should it be. Is that correct?

Attorney General LYNCH. That is correct. There is a different burden of proof on the Government, and where we have evidence that meets the criminal burden of proof, we do proceed. And there

are several people who are sitting in Federal prison contemplating the results of their actions now who can provide proof of that.

Senator SHELBY. Okay. Senator Mikulski.

Senator MIKULSKI. Thank you, Mr. Chairman. Madam Attorney General, there are many programs you have functioning at the local level, certainly in Baltimore. We have a top notch U.S. attorney's office, an outstanding Baltimore FBI field office, joint task forces working with local government going against everything—dealing with everything from human trafficking—such a violent, despicable thing—to Medicare fraud, which we know, for example, in Florida, is already to \$3 billion defrauding our Government of money that should be in the trust fund helping sick people. So we thank you for what you are doing.

#### GRANT PROGRAMS

The issue, though, is also focusing on criminal justice reform because of our grant program, particularly in COPS, Byrne, others, that go directly to local law enforcement. Do you think that there should be mandatory training in the areas of ethnic and racial bias as well as also on the use of force, and that there should be a national standard? In other words, in order to get the money, you have to take the training so that behavior will not tatter or wear out or even break the trust that the community must feel.

Attorney General LYNCH. Senator, I think as we administer our grant programs to our local law enforcement partners, all of those issues are on the table and are under consideration. Currently, I will say that our view is that the grant program is a very important tool in bringing offices into compliance with not only Federal standards, but also community standards. So we would not use that as a barrier to the grant program, but rather as an incentive to work with us and gain training on use of force policies.

We have grants that are specifically targeted towards that. Through the COPS Office, whether there is a collaborative reform effort or not, we provide specific training on best practices involving use of force. Not only do we provide the training, we also attempt to link local law enforcement with other local law enforcement offices that themselves have either received training for the COPS—

Senator MIKULSKI. But, Madam Attorney General, I mean, we will get lost in collaborative reform and all this, and I do not mean lost. First of all, we do know that Baltimore City through its both mayor, and police commissioner, and the concurrence of other elected officials have initiated a collaborative reform effort in Baltimore. That is a voluntary effort where police departments reach out to you, meaning the Attorney General, and his or her offices to evaluate the Department on how to better improve police community relations. That is under way, but that is voluntary.

Attorney General LYNCH. Yes.

Senator MIKULSKI. That is voluntary. Then, of course, there is the pattern and practice investigation. We know we have asked for that. You will make your determination later on whether you will initiate it.

But what about where they have not asked for collaborative reform, but they have asked for money? There is a lot of let us gets

the money, you know, and we supported more cops on the beat. We supported the Byrne grants so that our law enforcement would have the tools that they needed, whether it is other technology or whatever. But, again, they took the money, but we see that there are other issues that community-based leaders, faith and grassroots and others, are saying the relationship is worn. And my question is if you get the money, should there be training, whether it is latent bias, deliberate bias, and also the use of force?

Attorney General LYNCH. Yes, Senator, and I certainly agree—

Senator MIKULSKI. So do you think that apart from whether they have a collaborative reform effort underway or not?

Attorney General LYNCH. Yes, Senator. Separate and apart from whether there is a collaborative reform effort, in a pure grant situation we do seek to provide training. My only point was, and I actually do not want to disagree with you on that because it is such an important point. My only point was we do not use that as a barrier to obtaining the grant, but rather as an incentive to work with us and obtain training from a variety of different sources. Some of that training will come as a result of the grants. Some of the training comes as a result of us connecting police departments with others.

Senator MIKULSKI. I understand that, but the community feels they get a lot of money from the Feds, and we do not have the necessary things. So I would like to have ongoing conversation with you about it.

Attorney General LYNCH. Yes, and those issues are under consideration because, as you indicate, they are very, very important and essential to the—

Senator MIKULSKI. What other tools do you feel that you have on criminal justice reform to help restore this trust that exists that we need to restore on our communities?

Attorney General LYNCH. Well, Senator, we have touched a little bit on the collaborative reform process, but, again, as we have seen, without community trust in that, it may not be as effective as we would wish. Certainly we then have other tools to consider.

Within our programs we do provide training on use of force. We do provide training on building community trust. We also, as you mentioned earlier in your statement, through our Community Relations Service worked directly with the community to attempt to empower them to engage with their local leaders, with the police department, and to hold them accountable as well, because we do think that community accountability is an important part of that relationship.

Senator MIKULSKI. Well, we have more to ask. If there is a second round, I want to focus then on juvenile justice.

Attorney General LYNCH. Yes.

Senator MIKULSKI. Thank you very much.

Senator SHELBY. Senator Kirk.

Senator KIRK. Madam Attorney General, I want to raise questions about Racketeer Influenced and Corrupt Organizations (RICO) prosecutions. I understand that countrywide we have about 1,517 under the RICO statutes. Assuming that Illinois is about 5 percent of the United States, that would mean we would have had over 60 RICO prosecutions in our area. Right now it is about zero.

I want to encourage you very strongly to work with Zach Fardon, our U.S. attorney there, to make sure that the RICO prosecutions that we have underway, that we can prosecute gangs of national significance that then Chairwoman Mikulski backed me on to take on the issue of crime gangs, which are taking over some of our cities. I think RICO is the particular statute that we should go with.

Attorney General LYNCH. Senator, I could not agree with you more on the efficacy of the RICO statute in targeting—

Senator KIRK. Let me just follow up on one other thing.

Attorney General LYNCH. Certainly.

#### GANG VIOLENCE

Senator KIRK. This subcommittee has added \$18,500,000 to the U.S. Marshals to combat these gangs. My understanding is the new task force of Chicago has arrested about 344 people in relation to this effort. Is that your understanding?

Attorney General LYNCH. Sir, I do not have that exact number. I would have to get back to you, but I know that it is very active in the Chicago area.

[The information follows:]

As of July, there have been 695 arrests made in Chicago in relation to this effort.

Senator KIRK. Thank you.

Attorney General LYNCH. Senator, just to follow up on your previous point, I could not agree with you more on the efficacy of the RICO statute as a tool to target violent crime, particularly gang violence. The importance of taking out the leadership of a gang, both from a law enforcement perspective and from a community perspective, cannot be overstated. I thank you for the discussions that you and I had during my courtesy visits with you, and, in fact, I have had discussions with the U.S. attorney in Chicago as well as with the head of our Criminal Division here in Washington about finding ways to bolster those efforts, and both have assured me that they are also committed to using this important tool.

Senator KIRK. I want to make sure we get the word down to Leslie Caldwell and Doug Crow and make sure they follow up.

Attorney General LYNCH. Yes, sir. I have spoken with them, and they are committed to this as well.

Senator KIRK. Thank you.

Attorney General LYNCH. Thank you, sir.

Senator KIRK. Thank you, Mr. Chairman.

Senator SHELBY. Senator Leahy.

Senator LEAHY. Thank you, Mr. Chairman. Madam Attorney General, it is nice to see you again.

Attorney General LYNCH. Thank you, sir.

Senator LEAHY. Thank you for being here. And I agree with what Senator Mikulski said about your presence in Baltimore, and that sort of thing is not only important for the community, which you would understand far better than I, but it is important to the country. And I understand that as you did in your hearing before the Judiciary Committee, you were asked a number of questions on immigration, and questions on something that since I have been here every President has done, Executive actions on immigration. I think probably the most extensive were by President Reagan. But

I would also point out if—an Executive action is usually done, it is when Congress does not act.

Now, we spent hundreds of hours putting together an immigration bill in the U.S. Senate. It passed a couple of years ago. Two-thirds of senators voted for it, Republicans and Democrats alike. Huge bipartisan effort. Even though by all analyses the immigration bill would have passed the House of Representatives, the Republican leadership in the House refused to take it up.

So I have a little trouble hearing criticisms of the President finally acting when the Congress would not. If the Congress does not like what the President has done on immigration, pass an immigration bill. We did it in the Senate. Again, Republicans and Democrats came together. However, the Republican leadership refused to bring it up in the House. Had they, we would not even be having this question. So I would just say that if we do not like it, then the Congress must pass a bill.

I also think we ought to reform our Federal sentencing laws. The Bureau of Prisons is consuming nearly a third of the Department's budget, and we talked about what we should be doing on law enforcement and other priorities. A third of your budget is going into the Bureau of Prisons. Excessive mandatory minimum sentences are wasting money that could be spent otherwise.

One of the proposals under consideration by the Senate Judiciary Committee, the Modern Sentencing Act, would reduce mandatory minimums for non-violent drug offenses. In your law career as a Federal prosecutor, you prosecuted many drug cases. I prosecuted many drug cases. Do you think we can reduce those mandatory minimums, and still keep our communities—excuse me—and still keep our communities safe?

#### SENTENCING REFORM

Attorney General LYNCH. Senator, I think we absolutely can have sentencing reform that enables us to reduce the mandatory minimums and keeps our communities safe. It is important to note that the recent efforts at sentencing reform that seek to reduce mandatory minimums do not eliminate them. They still recognize the need to provide serious punishment for the most serious offenders. In fact, what we have seen with the Smart on Crime initiative is that while overall drug cases may have gone down, the longer sentences have actually gone up. We are now focusing on those larger offenders, the large-scale traffickers who are flooding our communities with poison as opposed to the lower level offenders, who did need to be punished, but at a different scale. So I think sentencing reform is an excellent way to make sure that these efforts continue.

Senator LEAHY. I think also we sometimes think we can do a one-size-fits-all. California did that with three strikes you are out, and it darn near bankrupted the State. I worry about what is happening when we are taking money from law enforcement to lock up people. Some people should be in prison. I am all for that. Others we are wasting time and money, and that money could be used in other areas of the criminal justice system.

## HEROIN

I am also worried about the increase in heroin use and overdose. It has become a health crisis. Even in my home State of Vermont we have not been spared. Between 2000 and 2012, treatment for opioid addiction in Vermont rose by more than 770 percent. Just last week, the Vermont State Police issued a warning about the dangers of heroin laced with the drug fentanyl, after it was linked to a number of multiple overdose deaths in our State.

Interdiction alone is never going to solve the issues, but the law enforcement agencies, particularly in small and rural States or small rural areas, which every State has, need some help. I pushed last year to create a new grant program to support an anti-heroin task force. I understand the grant program is getting under way. Last year, the Justice Department was instructed to create a multi-agency task force to address the rising number of heroin uses. Can you tell me how that is going and what you might be able to do to help with—

Attorney General LYNCH. Yes, Senator.

Senator LEAHY [continuing]. This public health crisis?

Attorney General LYNCH. Yes, Senator. It certainly is the intersection of law enforcement and a public health issue. Our budget does request additional funds to deal with this uptick in heroin abuse and other emerging drug areas.

As you noted, there is a Senate-mandated heroin task force. They held their first meeting just last week. The Deputy Attorney General is actively involved in that, and it deals not only with law enforcement, but the public health issues of that. It is also led and supplemented by several of our U.S. attorneys who over the past several years have themselves worked with public health officials and local communities to deal with this as a public health crisis. So we are bringing all voices to the table in an attempt to get the policies that have been effective at a local level promulgated nationwide and make them available to other communities as well.

As I mentioned, the President's budget does call for increases that would support our law enforcement efforts in heroin as well as opioid addiction in general because, of course, we still have the prescription drug crisis that is tied to this as well.

Senator LEAHY. Thank you. Thank you, Mr. Chairman and Senator Mikulski.

Senator SHELBY. Thank you. Senator Collins.

## FISA SECTION 215

Senator COLLINS. Thank you, Mr. Chairman. Attorney General Lynch, just this morning the 2nd Circuit Court of Appeals held that Section 215 of the Foreign Intelligence Surveillance Act does not authorize Government to engage in the bulk collection of phone numbers under the metadata program. One of the President's independent review groups which looked at this law, Mike Morrell, the former deputy director of the CIA, as well as the former director of the FBI, Robert Mueller, have said that had this program been in place prior to the terrorist attacks on our country on 9/11/01, it likely would have prevented those attacks. So we have a very serious question here of balancing security with privacy rights and the

clarity of the law, which is set to expire. That provision expires June 1.

Since January of last year, this section of the Foreign Intelligence Surveillance Act (FISA) has been conducted pursuant to new procedures that were instituted by the President. Now, the AG provides a semi-annual report on privacy violations associated with the law. The new procedure provides that except in emergencies, the FISA Court is now required to approve ahead of time any queries of phone records database because of the changes made by the President.

Two questions. One, are you aware of any significant privacy violations that have occurred since the President instituted these reforms? And second, has the Justice Department made a decision yet on appealing this decision by the 2nd Circuit? I realize it just came down.

Attorney General LYNCH. Yes. Thank you, Senator. Section 215 has been a vital tool in our national security arsenal, but the Department has, as you note, been operating under the new directives by the President with a view towards modifying the program to keep its efficacy, but preserve privacy interests. I am not aware at this time of any violations that have come to light. I will certainly seek a briefing on that, and should I learn of any, I will advise the subcommittee of that if my knowledge changes on that. But as of now, I have not been informed of any violations under the new policy.

With respect to the decision from the 2nd Circuit, my home circuit actually, we are reviewing that decision this morning. But given the time issues involving the expiration of it, we are and have been working with this body and others to look for ways to reauthorize Section 215 in a way that does preserve its efficacy and protect privacy.

#### ELDER FRAUD

Senator COLLINS. Thank you. I want to turn to an issue that you and I discussed when we met at my office, and that is the tremendous increase in the number of scams that are targeting our Nation's seniors. They range from the Jamaican lottery scam, the grandparents scam, and most recently the IRS imposter scam. What we have learned is that these scammers typically operate offshore, and they rely upon advanced communication and payment technologies. And the losses suffered by individual victims are devastating and they aggregate in the billions, yet the Federal Government has been extraordinarily lax in its approach to actually going after these criminals. And only the Federal Government can realistically tackle the international crime networks behind many of these scams.

I also want to bring to your attention that under your predecessor, and I want to make it very clear it was before your time, that the Department refused to send to the subcommittee a witness to testify on the Department's efforts. That was appalling to both the ranking member, Senator Claire McCaskill, and to me. What can the Department do to be more aggressive in prosecuting these scams which aggregate in the billions of dollars, and will you

pledge that from now on the Department will cooperate with our investigations?

Attorney General LYNCH. Well, Senator, with respect to the very, very important role that this subcommittee plays in gathering information about the Department's priorities, I will always strive to cooperate and provide either a witness or information, whatever is best, for the subcommittee to receive so that we can help you learn not only about our priorities and issues, but also to do the important work of this subcommittee. I am not aware of the circumstances that were around that previous request, but certainly I will always commit to providing this subcommittee with the assistance that it needs either before the subcommittee or at the staff level.

With respect to the very important matter that you raise—many of them are overseas based fraud schemes. The other troubling factor to me is that many of them target our elderly population, and that is a particularly vulnerable population to telemarketing schemes be they based locally or be they based overseas. So that is very troubling to me, and the protection of our vulnerable population is one of our priorities.

I am not aware right now of the cases that we may have in our pipeline. I certainly will ask for a review of this important issue. Our budget does, of course, ask for funding to continue the fight against fraud, and I know that all of the agencies that are involved in this, you mentioned, for example, the IRS scam calls, are very concerned about that.

As someone who actually received one of those calls myself, I can tell you that if one is not aware of the fraudulent nature of them, they can be very disturbing. And it is easy to see how our seniors in particular, but other people, can get pulled into that.

Senator COLLINS. Thank you.

Senator SHELBY. Senator Baldwin.

Senator BALDWIN. Thank you, Mr. Chairman and Vice Chairwoman Mikulski, for holding this hearing, and welcome, Madam Attorney General. It is so great to see you again this time in your now official capacity leading the Department of Justice.

#### VA INVESTIGATION

I was pleased to hear a few minutes ago your giving voice to the seriousness with which you take issues of over prescription, addiction, and abuse, and diversion of opioid drugs. And I want to call your attention to a situation in my State of Wisconsin at the Tomah VA medical facility where there are a number of investigations ongoing, all relating to these very pressing issues.

I called on your predecessor, Attorney General Holder, to investigate potential criminal activity at this facility. My request and communication to your predecessor was based on multiple sources, including published investigative journalism reports, numerous whistleblowers and citizens who have contacted my office conveying information that in my mind raises serious questions about potential criminal activity. Currently the VA is conducting an investigation as is the VA Inspector General, and the DEA is engaged in an investigation of allegations of drug diversions at the facility.

But I remain convinced that there are additional elements that warrant further criminal investigation. And my letter to your predecessor outlined some of those, including an alarming number of 9–1–1 calls made from the facility over the past several years—over 2,000—reports of 24 unexplained deaths, allegations of illegal access to confidential patient information and law enforcement records, et cetera.

Now, I understand you cannot get into any details of ongoing criminal investigations, so as a consequence I would simply ask if you will evaluate these allegations and coordinate with the existing three Federal investigations to determine if there are additional criminal investigations that are warranted and appropriate in this particular case?

Attorney General LYNCH. Well, Senator, I thank you for raising this important issue because I think that the safety and security of those who use our Veterans Administration's hospitals is foremost a priority, not just for my tenure as Attorney General, but for our country. As someone whose family has used those hospitals, I am well aware of how vital a resource they are to the families and to those who are ill. And certainly, I am aware of the situation. I have not yet had a briefing on the matter, but I will commit to you that I will request a briefing on this matter and make sure that all efforts to coordinate are being undertaken.

Senator BALDWIN. I thank you for that. And one additional matter, again, given the urgency with which we respond to the opioid abuse problems that we have throughout our Nation, I want to make you aware of some impediments in the DEA investigation into drug diversion at the Tomah VA. The DEA and the VA have differing interpretations of the scope of a VA specific patient privacy law, which may be limiting the ability of VA personnel to fully participate in interviews if they are told that they cannot reveal particular information about patients. It certainly would be an incredible obstacle to a thorough investigation if not fully resolved.

And so, if you have previously been briefed, I would ask you what is the status of the Department's effort to resolve the confusion? If you need authorization language from the Congress to resolve this issue, I would appreciate it if you would provide that to me and my staff.

Attorney General LYNCH. Thank you, Senator. As I indicated, I have not yet been briefed on this matter, although I am aware of the DEA's investigation into the situation, and of course fully support it. And we will also look into whether or not there are impediments to DEA being able to view this as a criminal matter.

Senator BALDWIN. Thank you.

Attorney General LYNCH. Thank you.

Senator SHELBY. Senator Alexander.

Senator ALEXANDER. Madam Attorney General, welcome. I was in New York City for my law school reunion at New York University (NYU) this past weekend, and many of my classmates knew you and were very complimentary of you.

Attorney General LYNCH. Thank you, sir.

Senator ALEXANDER. I want to begin by thanking you and the Department for something. It is my understanding that sometime today the Drug Enforcement Administration will approve the State

of Tennessee's application to import certified industrial hemp seeds for research purposes. That may seem like a small matter, but it was important to our State agricultural department, and there was a practical issue. The seeds had to be planted in May, so I thank you for moving that along.

#### PRESCRIPTION DRUG WHOLESALER REQUIREMENTS

Second, on the Drug Enforcement Administration, I would like to call something to your attention that has been called to my attention. I do not have a solution for it, but I think it deserves really the attention of the Attorney General and the management, and it has to do with prescription drug abuse and the relationship between the Drug Enforcement Administration and the wholesalers or pharmacies who distribute controlled substances.

Now, here is what seems to be the problem. DEA requires wholesalers to track and report on "suspicious orders." These would be orders from local drug stores I guess. And it restricts how those orders can be filled if they are flagged as suspicious. Well, there is no guidance or clarity about what is a "suspicious order," and as we both know in the law, whenever the law gets too vague, sometimes there are risks and problems associated with that.

One risk, of course, if a wholesaler refuses to send a controlled substance to a drug store, then someone with a broken arm goes to the drug store, and that person is out of luck. The other risk is that there develops an adversarial relationship between the Drug Enforcement Administration and the wholesalers over this issue.

So my request is simply this. Would you please take a look at the words "suspicious orders" and the relationship between the DEA and wholesalers and pharmacies, and see if there needs to be additional guidance so that we do not have an adversarial relationship between people who really should be in a partnership to make sure controlled substances are not sent to the wrong people at the corner drugstore?

Attorney General LYNCH. Certainly, Senator, I can commit to that. I also echo your concern that in a desire to protect people, we may be, in fact, inhibiting the ability of people who have legitimate needs for pain medications to obtain them, which is not our intention. And it certainly is something that I will undertake to review.

#### METH LAB CLEAN UP

Senator ALEXANDER. Thank you very much. And my final question also is just to put a spotlight on something. Our State, Tennessee, is third in the Nation in meth lab seizures. It is a big problem, especially in rural areas and because the demand for enforcement exceeds the funding. Our State developed what they call a central storage container program. They found a way to clean up meth labs for \$500 per lab instead of \$2,500 per lab. Now, that is progress if you can do something for 20 percent of what you used to do it for.

So we were pleased to see the budget of \$4 million more for the meth lab cleanup program this year, but disappointed that the Department decided not to include funding for the competitive grant program for State anti-meth task forces. Given that the meth epidemic is one of the most urgent drug problems that we face, espe-

cially in rural areas, what was the thinking, especially as it affects rural communities with less resources, in not expanding or continuing the competitive grant program for States?

Attorney General LYNCH. Thank you, Senator. My understanding of that competitive program, the COPS Anti-Methamphetamine Program, is that the funding that exists is 2-year funding, and so there was not a need to request funding for this year because the program as enacted last year would cover this fiscal year. It is, believe me, not a desire to end or in any way diminish the program.

And it is also my understanding that the solicitation for this fiscal year will be released very soon, later this month in May. So I regret the appearance that the Department may have pulled back or withdrawn from that, but it is my understanding that because we have 2-year funding for that, that we will then have to come back in the next fiscal year to request additional funding.

Senator ALEXANDER. Well, that would be very encouraging. Thank you for that explanation. Thank you, Mr. Chairman.

Senator SHELBY. Senator Murphy.

#### FCI DANBURY

Senator MURPHY. Thank you very much, Mr. Chairman. Welcome, Attorney General Lynch. Congratulations on your confirmation. I had a few broader questions to ask, but I wanted to begin with a rather specific one to the Northeast region and to Connecticut. We have historically had a women's correctional facility in Danbury, Connecticut, and in July of 2013, the Federal Bureau of Prisons announced it was going to close that facility, which would essentially be the only—was the only facility for women in the Northeast. We had a number of really positive discussions with the Department of Justice and with the Bureau of Prisons, and they reversed that decision, understanding that it would be incredibly detrimental to women who are incarcerated in the Northeast if they had to be transported hundreds, if not thousands, of miles to other facilities.

The solution was to build a new facility, a low security facility for women in Danbury. And the initial schedule was for that facility to be completed by this month actually. And in the interim, all these women are being spread amongst jails in the Northeast, jails that really are not equipped to be able to handle the things that these women need, especially drug counseling in the long run.

So I just wanted to ask you if you had an update on progress of the construction of that facility and whether we can expect that construction will be completed as soon as practicably possible so that we can transition these women who are now in places like Brooklyn and Philadelphia back to a more long-term suitable facility.

Attorney General LYNCH. Certainly, Senator, and I share your concern over that important issue. When I began my career as a young assistant U.S. attorney (AUSA) in the early 1990s, Federal Correctional Institution (FCI) Danbury was not yet a total women's facility, and most women who were prosecuted in the Federal system ultimately ended up being housed in West Virginia. And the facility actually was fine, but for women from the Northeast it presented a significant negative impact on their ability to stay con-

nected with their families. It harmed their relationships with their children. Those collateral consequences are the types of things that we seek to avoid. And so, having FCI Danbury in the Northeast has certainly been a positive law enforcement step for all of who work in that area.

My understanding is that the environmental impact studies were completed quite recently, and that there are additional matters. In fact, I believe that there are pricing materials being resolved this month, and I am told by my team that construction should begin this summer. I do not have an anticipated completion date for you, and I regret to say that I am hesitant to offer one having seen several government construction projects in my day. But I am told that construction should begin this summer on the new facility, and I share your concern and view that it is an important law enforcement resource for the Northeast.

Senator MURPHY. Thank you for your personal attention to this. I look forward to talking with you about it as we move towards the construction schedule. Again, this is really a development of a really positive series of conversations. Not easy to reverse course on something like this, and I really thank the Bureau of Prisons for considering the impact of shuttling women prisoners to the far reaches of the Northeast.

#### NATIONAL BACKGROUND CHECK SYSTEM

Just one other query. I represent Newtown, Connecticut, Sandy Hook. It is a community that is still grieving dealing with the ripples of trauma that still exist there. I understand the realities of this place that we are not likely to get a bill expanding background checks, though 90 percent of Americans support the notion that everyone should have to prove they are not a criminal before they buy a gun. But as Senator Shelby noted in his opening comments, the ATF position is open, a very important position, for the enforcement of existing laws.

And the existing national background check system can be made much better to make sure that all of the data is being uploaded into it, making sure that that information is distributed. A hundred thousand individuals every year are prohibited from buying guns because of the background check system. It works.

And so, I just I would ask for your commitment to work with us to make sure that the ATF has the resources that they need in order to carry out existing laws, and your commitment, as your predecessor did, to work with us on making sure that our national background check system has the resources it needs to continue to do the good work that it has for decades.

Attorney General LYNCH. Certainly, Senator. I am committed to that important goal of supporting and strengthening the ATF, as well as making sure that their processes and the existing systems are as efficient as possible because that is how we protect our citizens.

Senator MURPHY. Great. Thank you very much. Thank you, Mr. Chairman.

Senator SHELBY. Thank you. Senator Murkowski.

## TRIBAL LAW ENFORCEMENT

Senator MURKOWSKI. Thank you, Mr. Chairman. Madam Attorney General, welcome and thank you. I want to point out the aspects of your budget that focus on tribal law enforcement. This is an issue, of course, that is very important in my State. We had an opportunity to discuss it in your pre-confirmation meeting that we had, and I know that you have recently had a conversation with Julie Kitka, who is the president of the Alaska Federation of Natives.

The public safety challenges that face Alaska Native villages run the gamut, everything from the absence of full-time law enforcement officers in some villages, inadequate resources devoted towards community-based prevention, and restorative justice efforts. We have a tribal court system that is struggling because it is just really in an embryonic stage. We have human trafficking of our native women. The heroin issues that you have heard discussed here today are not just limited to the cities. They are out in our villages.

I know that you have got a lot on your plate. It is clear from the discussions here this morning. But I would like your commitment that you will work with me, you will work with the Alaska Federation of Natives (AFN) to really be involved to a personal extent and degree with some of these challenges that we are facing as they relate to rural justice in our native areas—in our rural areas. I have been asked by AFN, and I am actually going to be speaking to their board by video or by teleconference this afternoon, for an opportunity to sit with you and some of the native leadership to discuss some of these issues that are just so very troubling to us right now.

So I would like your commitment that we can have that meeting and perhaps very quickly your observations based on your conversations with not only me, but Ms. Kitka, about some of the substantive issues that we have with rural justice in Alaska.

Attorney General LYNCH. Senator, I would look forward to such a meeting, and I would welcome it.

Senator MURKOWSKI. Thank you.

Attorney General LYNCH. I think that the commitment that the Department of Justice and our Nation have made to Indian Country over the last several years has shown great promise, but it is one that must be sustained, maintained, and improved upon. We have several requests in the budget that go directly to the issues of tribal justice, the Office of Violence Against Women, for example.

And because it such an important issue to me, I am just going to outline them briefly because we are asking for an increase of \$100 million, but part of that money would go for tribal grant set asides. Twenty million would go for the Crime Victims Fund Tribal Assistance Program. Five million would go for the Office of Violence Against Women Domestic Violence Jurisdiction Program.

As I know you are well aware, we recently had great success in enabling tribal courts to deal with offenders who commit violence against women and children on native lands when the offenders are non-Natives. That had been a bar for some time. It has been tremendously helpful to have given that jurisdiction to the tribal courts.

We also are asking for money to address environmental problems in Indian Country as well as to maintain current positions. I firmly believe that this commitment must be not only maintained, but expanded upon else we really do risk sliding backwards, Senator, with all the issues faced by tribal lands, particularly, as you and I discussed with Alaska, having such a large land mass and dealing with the law enforcement challenges there. We have to set in place systems that will work, but that will also be maintained.

#### HEROIN

Senator MURKOWSKI. Well, I agree with you. We have got a lot of work to do, and I look forward to those conversations with you and your team. On the heroin issue, you have heard it repeated several times here today, but I will reiterate that in our very remote rural areas, areas that are islands, areas that are not accessible by road, we are seeing the impact of heroin, whether it is in Dillingham, whether it is in Kodiak. And actually we have got meth issues in the community of Kodiak, and law enforcement is focusing on that, so they are not able to focus on some of the smaller villages that are out there.

So you mentioned the heroin task force that is in place. I would ask that you not forget the smaller communities where we see—we see an addiction and a devastation truly just taking our communities, just wiping them out. And it is a frightening thought that the resources may be there and available for the cities, but that our smaller communities where losing a few young people can be so significant to just health, morale, and safety. So I would ask that you work with us on that.

And, Mr. Chairman, I do have other questions that I would like submitted for the record, most specifically with the codification of the Brady obligation in statute. We have talked about that, but I would like further follow up on that.

Thank you, Mr. Chairman.

Attorney General LYNCH. Thank you, Senator.

Senator SHELBY. Senator Coons.

Senator COONS. Thank you Chairman Shelby, and thank you, Attorney General Lynch, for your service and for your testimony before us today. I want to congratulate you as you being your important service in the interest of our Nation.

Last year, Congress demonstrated its commitment to the Victims of Child Abuse Act by unanimously reauthorizing the programs in both chambers. Children's advocacy centers funded under this law conduct forensic interviews in a way that is both effective in serving law enforcement needs and respectful of the delicate needs of child victims of abuse.

#### CHILDREN'S ADVOCACY CENTERS

I was frankly very disappointed to see the President's fiscal year 2016 budget request once again only asked for half of the amount needed to fund these crucial programs. We are talking a modest amount, \$11 million out of the \$20 million authorization. What has your experience been with children's advocacy centers in your law enforcement role, and do you expect to be an advocate for them within the Department in 2016 and beyond?

Attorney General LYNCH. Well, Senator, my experience has been based primarily with my experience as a U.S. attorney in the Eastern District of New York, and we have found children's advocacy centers to be extremely powerful partners. And for us it has been in dealing with children who may be related to the victims of human trafficking. That has been a huge problem that we have seen in the New York area. And so, I know that there are other issues that are in other parts of the country, and I look forward to learning more about those. It is definitely a program that I feel is extremely important.

The overall budget includes our request for Juvenile Justice Programs, and it is our hope that the panoply of programs that we offer will, in fact, help provide a valuable safety net for those children in need.

Senator COONS. Thank you. I look forward to working with you on these valuable programs that I think are under resourced, but there are many challenges in our budget environment.

#### VIOLENCE REDUCTION NETWORK

Let me next reference the Violence Reduction Network, which is an effective program for cities like my hometown of Wilmington to address violent crime and connect local law enforcement with cutting-edge law enforcement resources, mostly Federal resources. I want to thank the very hard-working team in the Office of Justice Programs (OJP's) Bureau of Justice Assistance and the Wilmington team that is led by John Skinner.

I hope you commit to ensuring the Violence Reduction Network (VRN) Program is maintained and supported with necessary resources so that it can continue to serve as a valuable connection between the Department of Justice (DOJ) and a number of communities that have seen dramatic increases in violent crime. Is that something you are inclined to support?

Attorney General LYNCH. Senator, I support it wholeheartedly. Certainly Wilmington has been one of the flagship cities in this, not a distinction that you sought, but one which came upon you, I understand. But Wilmington has been an excellent model frankly for the level of cooperation between the Wilmington Police Department and the FBI, and the State and local and other Federal law enforcement agencies as well.

My understanding is we actually have identified five additional cities for the next fiscal year to be involved in this program. Again, not a distinction that they would seek, but one which we think is an area in which we think we can provide assistance. Beyond just the VRN, of course, we do have other resources for violent crime for our cities that may not have such extreme, and we are fully committed to those programs as well.

Senator COONS. Thank you. I look forward to continuing to work on Federal, State, and local law enforcement partnerships that can reduce violent crime.

#### COLLABORATIVE REFORM INITIATIVE

Let us turn to the Collaborative Reform Initiative. As we all know, we have strained relationships between law enforcement and communities in cities across the Nation, most recently and trag-

ically Baltimore, but this has occurred in many other places. I am particularly interested in the Collaborative Reform Initiative efforts that are underway in Baltimore, and would be interested in hearing more about what is on the table for the project, and how it is going to be sustained, and whether recent events in Baltimore have affected the CRI timeline.

Attorney General LYNCH. Well, with respect to the situation in Baltimore, the Collaborative Reform Initiative was begun last fall actually at the request of the Baltimore Police Department. And our COPS Office went into Baltimore and has been very, very active in working with both the police and the community to work on ways to improve the Baltimore Police Department. As we have discussed in this chamber earlier today and throughout my most recent visit to Baltimore, recent events have certainly made us cognizant of concerns that both city, the police, and the community have about the efficacy of a collaborative reform process. And we are listening to all those voices, and we are certainly considering the best as we move forward to help the Baltimore Police Department.

It is important to note, I think, that collaborative reform has been a very successful tool throughout the country. We not only provide technical assistance and training to police departments around the country, but we connect them with other police departments who have themselves either been through the process or who themselves have very positive law enforcement practices. So we try and make it a peer-to-peer relationship in terms of work and training as well. It is a tool, very, very important tool. And as you will note, our budget does request an increase of about \$20 million to support these important reforms.

Senator COONS. Thank you, Madam Attorney General. I will submit a question for the record about forensic hair analysis. I was very concerned to see reports that FBI forensic experts may have overstated the strength of evidence, and I look forward to hearing what DOJ will be doing to provide meaningful relief to those convicted on the strength of misstated or inaccurate testimony.

Attorney General LYNCH. Thank you, sir. That is, in fact, an ongoing process, and we are very committed to working on that issue.

Senator COONS. Thank you. Thank you, Mr. Chairman.

Senator SHELBY. Senator Boozman.

Senator BOOZMAN. Thank you, Mr. Chairman. I apologize for running back and forth to you and our Attorney General.

There are two things that are really important to Arkansas, the sense of combatting violent crime and the other things that we are dealing with, but also reauthorizing the child nutrition programs. And so, we have a subcommittee going on in that regard, too, which both of those things go together, you know. If you have hungry kids, then, again, it all—it all flows together.

In the Smart Crime Initiative, I know that you have talked a lot about that and how important it is, and that in your request you state the initiative will spend \$247 million to focus resources on reducing disparate impacts of the criminal justice system on vulnerable communities. Certainly that is important to Arkansas. But my understanding that I am hearing from attorneys general throughout the country that the reality is that there seems to be a direc-

tive coming down that terrorism and cybercrime, it is kind of the number one—terrorism and cybercrime are the number one things that they are to devote their resources to. Can you talk a little bit about that? I know that is so important, and yet, you know, we have so many communities now that are experiencing violent crime and that it is increasing.

Attorney General LYNCH. Senator, thank you for the opportunity to address that issue. Obviously national security and cybercrime are important areas, as I have noted. They represent not only ongoing threats to public safety and to American citizens, but new and emerging threats. And so, our budget does ask for funding for that.

#### VIOLENT CRIME

With respect to violent crime, however, I will reiterate the Department's commitment and my own commitment to that issue has not wavered. One of the things I think that is very important as a former U.S. attorney myself has been to recognize that every prosecutor knows best the crime problems of their area. What we try and do in the Department as I look at policies and interact with not just people here in Washington, but also in the field, is to make sure that we maintain the flexibility that allows U.S. attorneys working in conjunction with their State and local counterparts to identify the crime problems in their area and focus their resources on them. For example, my former office, the Eastern District of New York, has both a strong national security practice and a large violent crime program. Every office is not going to be similarly situated, so it is my goal to give my prosecutors the flexibility that they need to deploy their resources to best address the crime problems at hand.

With respect to violent crime, the Department's anti-violent strategies for several years have been focused on three main issues. Law enforcement, effective, vigorous, strong, is the core of that and the first part of that. But we are also attempting to look at prevention as well as reentry programs, and it has been very gratifying to see members of this body also address those issues at the statutory level as well.

As you mentioned, with respect to the food services program, not a DOJ program, but one that certainly impacts the crime rate of an area because it impacts the poverty rate of an area, and the health of the children, and the opportunities that they have, so it is interdisciplinary. It is holistic, and I can assure you that there is not an over emphasis on one type of priority over others. If a U.S. attorney feels that the largest problem in their area is one of violent crime, we have a number of ways in which we deal with that. We will concentrate resources for them. We will provide assistance from other offices and main Justice for them. I myself have in the past detailed attorneys from my office to others to help out on cases, capital cases and the like. And so, you will find a very, very strong commitment to violent crime prevention and enforcement within the Department.

#### HEROIN

Senator BOOZMAN. Thank you. Another huge issue going on throughout the country, not only in Arkansas, is opiates and her-

oin, and there are reports of doubling, tripling, things in that nature. Can you talk a little bit about addressing that problem? And then the other thing that I think is so important are the drug courts, and I think, for the first time, you have actually something in your budget for that.

Attorney General LYNCH. Yes.

Senator BOOZMAN. Are you an advocate or lukewarm or whatever? I really feel like that is—if there is a solution, that that is one of the key components to it.

Attorney General LYNCH. One of the key components certainly in the reduction of over incarceration as well as crime prevention have been drug courts. At the Federal level, not only are we focused on drug courts, we are focused on expanding our network of veterans drug courts because what we have seen also is that our veterans are returning with a number of problems for which the criminal justice system may not be the best method to treat them, for lack of a better phrase. And so, we are trying to expand opportunities to provide treatment as well as crime prevention for our veterans, as well as other low-level drug offenders.

They have been tremendously successful. My former district, the Eastern District of New York, has a very strong pre-trial diversion program as well as a pre-trial opportunity program. We try and pair those with reentry programs also, so I think that that is a very, very important tool.

I would add, however, that it really has been the States who have been showing us by example how effective drug courts can be in reducing crime, reducing recidivism. And the real goal is to make productive members of society out of those individuals whom we otherwise might have incarcerated for way too long.

Senator BOOZMAN. Thank you, Mr. Chairman.

Senator SHELBY. Thank you. Senator Mikulski.

#### PRISON POPULATION

Senator MIKULSKI. Mr. Chairman, I know the House is late. I just have a few comments for ongoing efforts. First of all, I want to associate myself with the remarks of Senator Leahy, the gentleman from Vermont, about the need for reviewing sentencing reform. But the prison population, you know, your appropriations request for prisons is \$7 billion. It is a significant amount of money because it constitutes almost one-third of your appropriations.

I would hope because there is bipartisan effort in this area in terms of looking at what we need to do to safely reduce the prison population. We have an excellent facility in Maryland in Cumberland, but our concerns would be the public—safety for the public. Second and parallel, safety for the correction officers because you have got significant challenges in the prisons with overcrowding, and I worry about their safety.

And then third, what are the issues where prisoners who are either really old or really sick? In other words, how can we begin to do an evaluation of who is in prison and should they be in prison? And, Madam Attorney General, I would hope as you begin your term here that you look also at those of a significant age or significantly ill where they would pose no threat to the general public.

So let us have an ongoing conversation about it, and we look forward to your recommendations.

#### HEROIN

Heroin. It has come up just about from all of us, both side of the aisle. My Governor, a Republican Governor, a 90 percent congressional—Democratic congressional delegation. We are Team Maryland and wanting to deal with this, so we ask that your task force, which I initiated when I was chair with the support of Senator Shelby, is that it not only be internal to the Justice Department, but it be across the board involving the Department of Education, the Department of Human Services, the Department of Homeland Security. Is that the nature of the task force, or is it internal to the Justice Department?

Attorney General LYNCH. Senator, the task force had its first meeting last week, and I have not been fully briefed on that, but I will confirm the level of participation to you. Even if it is, however, focused on the Department of Justice, that does not preclude us from, as you noted, reaching across the street to those agencies and pulling them into the debate.

Senator MIKULSKI. We think this is a big issue. It is a big issue in our State. The third point that I want to make is juvenile justice. There are several grant programs here in the area of juvenile justice. I would hope in the days ahead we could work with your Department on what you feel would have, as we work with our mayor and our community-based groups, what would be the effective juvenile justice programs that we could either bring additional resources in or appeal for or apply for these grants.

I know speaking for the delegation and speaking for the leadership of our city, not only government, but our private sector as well as our community-based, faith-based leaders, we see this as a situation in which there could be an opportunity to really do something very significant in terms of our young people so that for those that are on track, we help them stay there. For those who need to get back on track, help them get there. And for those who really constitute significant risk to our community, we also do the right intervention. So we look forward to ongoing conversation. You are always welcome back in our hometown, but we also appreciate the availability, and the accessibility, and the professionalism of your staff.

Attorney General LYNCH. Thank you, ma'am.

Senator SHELBY. Thank you. Senator Collins.

#### DRUG COURTS

Senator COLLINS. Thank you very much, Mr. Chairman. I want to associate myself with the remarks of the Senator from Arkansas about the value of drug courts and the special veterans courts. I have seen firsthand in Maine the difference that these courts can make in helping people straighten out their lives, avoid imprisonment, and really change the direction of their lives. I know that does not happen in every case, but I have got to believe that these are cost effective.

And that is why I am disappointed that the administration's budget cuts \$5 million from the drug courts program compared to

last year when it was funded at about \$41 million, and also cuts a million dollars from the veteran treatment courts. I hope our subcommittee will take a look at that, but I wonder if the Department has done any sort of cost benefit analysis because this is a case where I think we are being penny wise and pound foolish.

Attorney General LYNCH. Ma'am, I am not aware of any cost benefit analysis to that, but I will see. I will ask if that was done, and so I do not know the basis for that particular allocation of funding there, but I certainly share your commitment to the efficacy of drug courts and the veterans treatment courts. And like you, I have seen them literally change lives.

Senator COLLINS. Well, I have seen it firsthand because I actually several years ago hired someone who had gone through the drug court program successfully. I will admit that I was somewhat apprehensive, but she turned out to be a wonderful employee, and I wanted to give her a chance. And but for drug court, her life would have gone in a very different direction.

I have also spoken at a graduation ceremony for a drug court in Portland, and it was really inspiring to see largely younger people being reunited with their significant others or spouses and children, and know that they really were committed to turning their lives around. I have also heard of the cases that were not successful, but that is the beauty of the drug court. And I just think this is something that deserves our support.

Attorney General LYNCH. I agree. Thank you, ma'am.

#### REGIONAL INFORMATION SHARING SYSTEM

Senator COLLINS. Let me just end with one other very successful program in my State that also unfortunately is cut quite severely in the administration's budget. And I realize you have not been on the job very long and were not involved in formulating this budget, so I am not certain whether you are familiar with this program. But it is called the Regional Information Sharing System (RISS). And I hear repeatedly from police officers, detectives, sheriffs, law enforcement at all levels in Maine, State, local, county, about how essential the RISS Program is in their efforts to fight violent crime, drug activity, human trafficking, and a host of other criminal enterprises.

I want to give you a specific example. A detective in Franklin County, a rural part of our State, told me recently about a fascinating case involving counterfeit silver dollars from China. He used the RISS databases to discover that the suspect was committing this crime throughout the State of Maine. He was also able to determine whether the same crime was occurring in other States. What was at first just a one incident case became a statewide investigation with the help of the RISS network and tools, which are especially vital in a rural State like Maine.

And that is why I am disappointed that the President's budget has slashed funding for this program. It is such an important tool for rural law enforcement to use. So I hope looking forward that you will take a look at programs that encourage that kind of collaboration at all levels of government, and allow a local sheriff who has arrested someone, to find out that this person has been com-

mitting crimes not only throughout his or her State, but in other States as well, and thus build a stronger case.

Attorney General LYNCH. Yes, ma'am. I share your view that that system is particularly efficacious. My understanding of that is that the request in the budget this year mirrors the request last year, which was increased by \$5 million, so that it was not viewed as cutting that program, but maintaining it because we do feel it is so important.

Senator COLLINS. Well, it is my understanding that we plussed up the program in the Appropriations Committee because it was so successful, has bipartisan support, but then the administration in its budget request went back to the previous level. I may be mistaken about that, and I would certainly welcome any additional information.

Attorney General LYNCH. We will provide you additional information on that issue.

[The information follows:]

The fiscal year 2016 President's budget request includes \$25 million for the Regional Information Sharing System (RISS), which matches the fiscal year 2015 request.

Senator COLLINS. Thank you. Thank you, Mr. Chairman.

Senator SHELBY. Thank you, Senator Collins. Attorney General Lynch, thank you for appearing here today and being patient with all of us and our questions. We look forward to working with you to make sure that the Justice Department is properly funded.

#### ADDITIONAL COMMITTEE QUESTIONS

If there are no further questions here this afternoon, Senators may submit additional questions for the subcommittee's official hearing record. And we request that the Department of Justice's responses to those questions come back within 30 days, Madam Attorney General.

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

#### QUESTIONS SUBMITTED TO HON. LORETTA E. LYNCH

##### QUESTIONS SUBMITTED BY SENATOR BARBARA A. MIKULSKI

##### STOPPING HUMAN TRAFFICKING AND PEDOPHILES

*Question.* What efforts is the Justice Department taking to stop human and sex trafficking in the U.S.? What additional resources are needed by Justice agencies to put traffickers out of business?

*Answer.* The Department aggressively prosecutes human trafficking cases. The Department has worked with its community and law enforcement partners to increase reporting and identification and to provide services to stabilize and support victims, in order to both facilitate victims' recovery and prosecute the offenders. Some cases are prosecuted federally while others are referred to State or local authorities for prosecution. In others, the case might result in the defendant being convicted of a criminal offense other than trafficking. The Department also collaborates closely with our interagency partners on innovative anti-trafficking initiatives, including the Anti-Trafficking Coordination Team (ACTeam) Initiative and the U.S.-Mexico Bilateral Human Trafficking Enforcement Initiative. In addition, the FBI leads or participates in 51 Human Trafficking Task Forces and 65 Human Trafficking Working Groups across the country.

The Department also continues to respond to dynamic threats involving the commercial sexual exploitation of children, such as gang-related child sex trafficking

and the use of Web sites to facilitate prostitution. The FBI's Violent Crimes Against Children Section (VCACS) leads 71 Child Exploitation Task Forces across the country and partners with 400 local, State, and Federal agencies in targeting those who victimize children through commercial sex trafficking. The Department, through the FBI, Civil Rights Division, Criminal Division, Office of Justice Programs, and other components, has also provided training on all forms of human trafficking to investigators, prosecutors, judges, Federal employees, non-government organizations, and others throughout the United States and in dozens of countries abroad.

In sum, the Department's trafficking programs continue to grow in scope, complexity, and impact. The \$2.8 million enhancement in the fiscal year 2016 budget request for the Civil Rights Division would allow the Department to further build on this momentum.

*Question.* What kind of connections are agencies like the FBI seeing with gangs and human trafficking and sex trafficking?

*Answer.* Gang involvement in human trafficking and commercial sex operations is another area in which the FBI can work to disrupt and dismantle criminal organizations that use the exploitation of adults and juveniles for profit. Historically, gangs had limited involvement in human trafficking, but that level of involvement has increased due to the potential for profit from these crimes and the perception of a lower risk of detection and punishment.

The FBI works with other Federal, State, local, and tribal law enforcement agencies and victim-based advocacy groups to target human trafficking activity, including gangs that perpetrate the activity, and to rescue the victims of these crimes. The National Gang Intelligence Center and multiple law enforcement agency reports indicate that some gangs derive their income through human trafficking of adults and juveniles. Some gangs recruit, as well as exploit, affiliated female gang members for sex trafficking. Prostitution and human trafficking provide a significant source of income for a growing number of gangs. Street gangs and Outlaw Motorcycle Gangs have expanded their criminal scope into commercial sex. Gangs involved in prostitution and human trafficking employ control techniques, including: the use of drugs, violence, sexual assault, rape, branding or tattooing, and manipulation of victims to commit other crimes in furtherance of the gang. Similar to traditional pimp-and-prostitute relationships, gang members provide security, transport victims to dates, and schedule appointments.

#### COMBATTING HEROIN

*Question.* In the fiscal year 2015 omnibus, we requested that the Department of Justice convene a task force to come up with a comprehensive Federal solution covering law enforcement, healthcare and treatment, and prevention efforts. I was disappointed to hear that the task force had not even convened at our law enforcement hearing in March. What can you tell us about the status of the task force? Who is participating?

*Answer.* DOJ continues to increase support for drug abuse education, prevention, and treatment through partnerships with doctors, educators, community leaders, and police officials. As directed by Congress, the Department has joined with the Office of National Drug Control Policy to convene an interagency Heroin Task Force to confront this challenge. This Task Force is co-chaired by the U.S. Attorney for the Western District of Pennsylvania and the Office of National Drug Control Policy Deputy Director for State, Local and Tribal Affairs. The Department, Drug Enforcement Administration (DEA), and more than 28 Federal agencies and their components are actively participating on the Task Force. As noted in more detail below, other participants include medical community, enforcement, public health, and education experts. The Task Force is taking an evidence-based approach to reducing the public health and safety consequences caused by heroin and prescription opioids. We expect the Task Force to submit its comprehensive Strategic Plan to the President and Congress by the end of 2015.

The Task Force has convened three times as of July 28, 2015. Deputy Attorney General Sally Yates and the Director of the Office of National Drug Control Policy (ONDCP), Michael Botticelli, opened the first meeting. DEA Administrator Chuck Rosenberg and Centers for Disease Control and Prevention Director Thomas Frieden opened the second meeting. Four committees have been established to develop solutions to the heroin crisis. The committees include Prevention and Education, Law Enforcement, Treatment and Recovery, and Coordinated Community Response. The committees have met on multiple occasions to receive evidence, evaluate the problem, and begin developing recommendations.

Participating agencies include: the Bureau of Justice Assistance, Bureau of Justice Statistics, Centers for Disease Control and Prevention, Substance Abuse Mental

Health Services Administration, Centers for Medicare and Medicaid Services, Criminal Division, Community Oriented Policing Services, Drug Enforcement Administration, Department of Homeland Security, Department of Energy, Federal Bureau of Investigation, Food and Drug Administration, Federal Bureau of Prisons, Health Resources and Services Administration, Office of HIV/AIDS and Infectious Disease, Homeland Security Investigations, Justice Management Division, National Institute of Justice, National Institute of Drug Abuse, National Security Council, Office of the Deputy Attorney General, Office of National AIDS Policy, Office of National Drug Control Policy, Office of Urban Affairs, Justice and Opportunity, Organized Crime Drug Enforcement Task Force, Public Housing Support Services, and the United States Attorney's Office.

*Question.* Will the subcommittee receive a complete and comprehensive final report by December 2015?

*Answer.* The Task Force expects to complete and submit its full report to the subcommittee by the end of 2015.

*Question.* This subcommittee added funding of \$7 million in the COPS Office for State and local enforcement combatting heroin in communities across the United States. Why was this program eliminated in the Justice Department's fiscal year 2016 budget request?

*Answer.* The Department of Justice and the administration have other resources available through the Drug Enforcement Administration and Office of National Drug Control Policy and, based on other budgetary needs, did not request funding for the heroin program in fiscal year 2016. Additionally, the fiscal year 2015 funding provided will support the task forces for 2 years.

#### BODY CAMERAS

*Question.* Fiscal year 2016 budget request includes \$30 million for body cameras. The fiscal year 2015 budget had \$20 million for body cameras as a Byrne-JAG program. How many cameras are expected to be purchased with each of these of amounts?

*Answer.* The Bureau of Justice Assistance plans to deploy over 11,000 cameras in fiscal year 2015 and over 15,000 cameras in fiscal year 2016. This funding also creates a national service provider to offer training and technical support to all agencies, thereby ensuring federally and non-federally funded programs have the greatest chance at success.

*Question.* What is the Department's cost estimate to put a body camera on every police officer? What costs come with data storage?

*Answer.* The Bureau of Justice Assistance has worked to create a per-camera, 2-year program cost of approximately \$3,000. This funding metric is used in the Body-Worn Camera Pilot Implementation Program where the award maximum is \$1,500 per camera to be deployed and is to be matched with State and local funds. A 100-camera program maximum award is \$150,000 for a total 2-year program cost of \$300,000.

Storage costs vary based on tangential considerations such as in-house versus cloud, security requirements, bandwidth needs, retention guidelines, scalability and redundancy. Current market trends for hosted solutions range from \$20 to \$100 per month, per camera. Similar scalable cost could be associated to in-house managed storage solutions though the quality of tangential considerations will also vary.

Ongoing annual costs, primarily storage, are estimated at \$150 million per year, an estimate that could be reduced with rapid development of storage technologies and economies of scale.

The Bureau of Justice Statistics estimates that there are 477,000 sworn officers in America and that 65 percent of officers (310,000) perform a patrol function. This can vary between police agencies and sheriff's offices where the role of corrections is more prevalent. Given these considerations, if every patrol officer needed to be issued a new body camera, OJP estimates the total Federal cost to be \$465 million, to be matched by State and local jurisdictions for a total 2 year program cost of \$930 million. This is inclusive of policy development, training, implementation and estimated storage costs. Ongoing annual costs (year 3 and out) are estimated at \$150 million per year, an estimate that could be reduced with rapid development of storage technologies and economies of scale.

*Question.* What are the privacy implications of body cameras? What is the Justice Department doing to study and publish best practices on body camera usage?

*Answer.* The Bureau of Justice Assistance (BJA) fiscal year 2015 body-worn camera solicitation requires agencies to perform an extensive review of all identified aspects of the body-worn camera program, including privacy considerations. BJA is also funding a national training and technical assistance provider to support all law

enforcement agencies in policy development and implementation. This national provider will work with Department components to further develop policy, best practices, and research.

BJA has also developed the Web-based National Body-Worn Camera Toolkit, which represents a broad collection of the topics pertinent to developing and implementing body-worn camera programs, including privacy issues. As a clearinghouse of reference material, policies, lessons learned and other resources, this website received over 30,000 visits in its first month alone. Examples of the resources that are already available through the toolkit are the Office of Community Oriented Policing Services 2014 Implementation Guide, the National Institute of Justice (NIJ)-funded Primer on Body-Worn Cameras for Law Enforcement and the Office of Justice Programs Diagnostic Center review of research on body-worn cameras. The Toolkit site also offers multimedia testimony from active practitioners to provide valuable insights into the efforts required to establish successful body-worn camera programs.

NIJ is providing funding for two research projects currently being conducted to examine the impact of body-worn cameras on policing.

- Researchers in the Las Vegas Metropolitan Police Department are currently examining the use of body-worn cameras by approximately 400 police officers in Las Vegas, Nevada. Outcome measures will include officer compliance with department policies, changes in police-citizen behaviors, and decisions by officers to use force in police-citizen encounters.

- Researchers are also evaluating body-worn cameras in the Los Angeles Police Department to examine their impact on privacy issues, police legitimacy and changes in police services, and reductions in crime.

In fiscal year 2015, BJA transferred \$1 million to BJS so it could begin collecting data and generating statistics on this issue for a two part multi-year project. Of those funds, \$500,000 was used to fund a 2015 survey. The first body-worn camera survey will be conducted this summer and fall (2015), in which BJS will survey local law enforcement agencies about their use of body worn cameras. The survey will address the following topics:

- When an agency obtained body-worn cameras;
- An estimate of the number of body-worn cameras in use;
- The level of deployment of body-worn cameras;
- Reasons for acquiring body-worn cameras (for those agencies that have them);
- Reasons for not acquiring them (for those agencies that did not acquire them);
- Collaboration with other entities in relation to body-worn cameras; and
- Formal body-worn cameras policies related to:
  - General operations (when to turn them on/off, recording effectively, informing citizens);
  - Transfer, storage, disposal of body-worn cameras video;
  - Frequency of upload and off-loading video;
  - Responding to external requests for video footage;
  - Retention and disposal of body-worn cameras video; and
  - Restrictions on internal/external access to body-worn cameras video.

BJS expects to have results from this survey by the end of 2015/early 2016.

The remaining \$500,000 will support a second survey to be conducted in 2017. By repeating the survey 2 years later, BJS will be able to assess change in use and policies.

Body-worn cameras are intended to produce benefits to law enforcement and the residents of the places they serve. Among the potential benefits to law enforcement are improvements in evidence that can be used to clear crimes and the lessening of conflict that could result in officer or citizen injury or death. To study whether there is a relationship between the adoption of body-worn cameras and clearance rates or assaults (on officers or by officers), BJS will link its Law Enforcement, Management & Administrative Statistics data with the FBI's Uniform Crime Reports data on clearances by arrests, and the FBI's Law Enforcement Officers Killed or Assaulted and data from its body-worn cameras surveys to study the relationship between body-worn cameras and these outcomes. As additional data on body-worn cameras become available in future years, BJS would replicate this analysis with new data.

#### CRIME DATA REPORTING

*Question.* How many States report National Incident-Based Reporting System (NIBRS) data to the FBI?

*Answer.* The FBI has certified 33 State Uniform Crime Reporting (UCR) Programs as NIBRS-certified. These 33 States are divided into two groups:

—In the first group of 16 States, labeled “complete reporting States,” all the State’s law enforcement agencies that have an associated population report NIBRS data to the State’s NIBRS-certified UCR program. Actual reporting rates by these agencies vary over time.

—In the second group of 17 States, the State UCR program is certified to report data to NIBRS, but not all of the State’s local law enforcement agencies submit incident-based data.

The remaining 17 States and the District of Columbia do not have a NIBRS-certified component to their State-level UCR program. Fifteen of the 17 States report only to the FBI’s Summary Reporting System (SRS), and two of the 17 have no State-level UCR program at all (Indiana and Mississippi). <https://www.fbi.gov/about-us/cjis/ucr/nibrs/2013/resources/nibrs-participation-by-state>.

While currently more than 6,500 local law enforcement agencies participate in NIBRS, these agencies cover about 31 percent of the resident population in the United States.

*Question.* What is the average annual IT operation and maintenance cost for States to submit Uniform Crime Report (UCR) data to the FBI? What is the estimated cost for a State to also submit NIBRS data to the FBI?

*Answer.* BJS is not aware of any estimates for the costs for States to submit UCR data. The costs vary by State based on their collection and reporting levels as well as their population size. Each State also pays for the costs in different ways.

While there are costs to the States, the majority of the costs associated with collecting, coding, analyzing, and submitting NIBRS data to UCR State programs fall to the local law enforcement agencies that collect and submit their crime data to the State.

It is not necessary for each State to submit NIBRS data in order for BJS to generate nationally representative incident-based data. BJS and the FBI created the NCS–X program to recruit the scientifically determined sample of 400 additional law enforcement agencies into NIBRS which, combined with the currently participating NIBRS agencies’ data, will produce nationally representative crime estimates. Currently more than 6,500 law enforcement agencies submit NIBRS data to the FBI, which is approximately 40 percent of the Nation’s law enforcement agencies. When completed, nationally representative NIBRS data will increase our Nation’s ability to monitor, respond to, and prevent crime by allowing NIBRS to produce timely, detailed, and accurate national measures of crime incidents.

The costs for the States are small by comparison to the costs to the local law enforcement agencies. Below is a chart outlining the total estimated costs of \$112 million for the NCS–X program:

Project Component	Total Cost	Deliverable/Outcome
State UCR Program Support.	\$11.4 million ...	Establishing new NIBRS-certified reporting components in 17 States; expanding capacity for receiving and processing NIBRS data in 16 States. Costs for States may range from less than \$100,000 to over \$1 million depending on their needs.
Training support for local agencies.	\$11.0 million ....	Funding to support agency-specific training on data entry, coding, and quality assurance—cost per agency often dependent on volume of incidents handled, type of RMS data structure, point of entry for data, and agency-specific review processes.
Training on NIBRS ...	\$4.0 million .....	Funding to support the development of NIBRS training, for use by both local agencies and State UCR programs—this training would build on training already conducted by the FBI CJIS UCR staff, and would include a Web-based component.

Project Component	Total Cost	Deliverable/Outcome
Support to the 400 local law enforcement agencies in the NCS–X sample.	\$85.6 million ....	Conversion of the sample of 400 agencies to NIBRS reporting; generation of nationally representative estimates of crime based on the attributes of the offenses. It is possible that some funds may be allocated for crime analysis training needs as well as for Web tool updates (e.g. with socio-economic data, NIBRS, and other data). Costs for law enforcement may also range from less than \$100,000 to over \$1 million depending on their needs.

These costs were estimated based on information gathered from State UCR programs, from the 400 sampled agencies via a survey about reporting capacity conducted in 2014, and feedback from service providers who implement and support record management systems for local law enforcement agencies and State UCR programs.

The amount of hardware or software needed to support a local agency in reporting incident-based data in the NIBRS format varies by agency and across States, depending on the incident-based data structure required by the State (if any), the volume of incidents handled by the local agency, the type of record management systems and other databases used by the agency, the point of entry for the data, and other agency-specific factors.

*Question.* What is the Justice Department doing to get more State and local law enforcement to report on data like officer related shootings?

*Answer.* The Department of Justice’s only current source of such data is the FBI’s Supplementary Homicide Report (SHR), which:

- captures only voluntary reports by law enforcement of the deaths they deem to be “justifiable homicides.”
- does not capture arrest-related deaths attributed to suicide, intoxication, accidents, or natural causes, or homicides that were not deemed “justifiable.”
- does not capture additional details about the incident, such as actions taken by both the decedent and law enforcement during the event that caused the death.
- reports data only annually with a 2-year lag.
- is prone to significant error because many agencies do not volunteer to participate.

The FBI Uniform Crime Reporting (UCR) Program recently received approval from the Criminal Justice Information Services (CJIS) Advisory Policy Board (APB) to expand their current voluntary data collection to include fatal and nonfatal officer-involved shootings. The current collection of justifiable force by law enforcement is limited to homicide, so this would represent an opportunity to provide a more complete picture for the Nation. At present, the UCR Program is working with representatives from the law enforcement community—including major organizations such as the International Chiefs of Police, National Sheriffs’ Association, Major City Chiefs Association, Major County Sheriffs’ Association, and the Police Executive Research Forum—to refine the definition and content of this collection.

The work with law enforcement representatives continues to focus on opportunities to improve the amount of information available for officer-involved shootings, as well as increase participation in the existing data collection of justifiable homicide. This information is vital to both law enforcement in order to inform policies and training on use of force, and to the communities that they serve in order to increase transparency and demonstrate the principle of procedural justice.

BJS is undertaking methodological research to improve the collection of data under its Arrest Related Deaths (ARD) Program, through which it aims to capture data on all deaths in the process of arrest and respond to the Deaths in Custody Reporting Act (Public Law 113–242) request for such data.

BJS collected data on deaths in the process of arrest under its ARD program beginning in 2003 but temporarily suspended data collection in 2014 because BJS did not have the necessary resources to ensure the accuracy and reliability of the data.<sup>1</sup> At that time, BJS evaluated the extent to which ARD and the FBI’s Supplementary

<sup>1</sup>BJS was using approximately \$250,000 per year to operate the program during that time.

Homicide Report obtained data on all justifiable homicides and homicides by law enforcement officers. In March 2015, BJS reported that both the ARD and the FBI's Supplementary Homicide Report were undercounting arrest-related deaths by half of the expected number. The BJS reports can be found at: <http://www.bjs.gov/content/pub/pdf/ardpatr.pdf> and <http://www.bjs.gov/content/pub/pdf/ardpdqp.pdf>.

BJS has been testing new methodologies to improve the collection of ARD data and will have results by early 2016. The methodologies involve a combination of "open source" (such as Web searches, news accounts, etc.) for cases of deaths to be investigated further and direct survey of law enforcement agencies, medical examiners offices, and other State-level offices that investigate officer related shootings, to obtain data to confirm the facts surrounding a death. The methodology also provides a basis for auditing the completeness of the records submitted to BJS by law enforcement. BJS has started collecting data, will evaluate the quality (coverage and accuracy) of the data it collects, and use the results of this methodological research to implement improvements to its ARD Program.

These new methodologies will be used to implement an ongoing, continuous data collection that identifies and validates eligible cases of arrest-related deaths and minimizes the number of such deaths that are not reported to the program.

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QUESTIONS SUBMITTED BY SENATOR SUSAN M. COLLINS

GUANTANAMO BAY DETAINEES

*Question.* If Gitmo were closed, what is the administration's plan for dealing with detainees who fit in this category?

*Lead-in information from original document.—*

The administration has said that there are 37 detainees held at Guantanamo Bay who are in preventive detention because they are too dangerous to release, but who will not be tried in a military tribunal or an Article III court. The President's plan to close Guantanamo Bay is unlikely to succeed without a plan to deal with these detainees.

*Answer.* The closing of the Guantanamo Bay detention facility remains a top administration priority and a national security imperative. The facility's continued operation undermines our standing in the world, damages our relationship with key allies and partners, and emboldens violent extremists while at the same time draining hundreds of millions of dollars each year that could be better spent on other national security priorities. Accordingly, the administration is currently finalizing a draft plan to close the Guantanamo Bay facility, which will include addressing detainees who remain too dangerous to transfer or release but who will not be tried. Those detainees will remain eligible for review by the Periodic Review Board, which brings together representatives from the Department of Defense, Department of Homeland Security, Department of Justice, Department of State, Office of the Joint Chiefs of Staff, and Office of the Director of National Intelligence to examine whether, given current intelligence and other information, continued detention remains necessary to protect against a continuing significant threat to the security of the United States.

TRANSFER OF FOREIGN DETAINEES

*Question.* If the administration's plan is to transfer foreign detainees in preventive detention to the United States, does the administration believe it has sufficient legal authority to indefinitely detain foreign nationals in the United States under the law of war without jeopardizing the lawfulness of their detention?

*Answer.* Current statutory bars exist on the expenditure of funds for purposes of detaining Guantanamo detainees in the United States. In *Hamdi v. Rumsfeld*, however, the Supreme Court held that the Authorization for the Use of Military Force of 2001 authorizes the indefinite detention of enemy combatants in the United States, while active hostilities under the AUMF continue. As periodically reported to Congress consistently with the War Powers Resolution, the United States is engaged in active hostilities under the AUMF in various countries.

QUESTIONS SUBMITTED BY SENATOR MARK KIRK

CELL PHONES IN PRISON

*Question.* In 2013, 2,916 contraband cell phones were recovered in Bureau of Prisons facilities, including 1,083 recoveries from secured facilities. What is the Department of Justice’s (DOJ) strategy to achieve a total communications blackout in Federal prisons to stop incarcerated gang members from communicating with outside criminal organizations? What resources are necessary to achieve such a blackout, and what legal hurdles, if any, should Congress consider in addressing this issue?

*Answer.* The financial resources necessary for DOJ to achieve such a total communications blackout are significant. As of May 2015, BOP conducted a cost estimate for implementing a cellphone detection solution at a “representative BOP facility.” While no two sites are exactly the same, there are three general location classifications for testing: an institution in a rural location, an institution in a light urban area, and finally, an institution in a metropolitan location. Each context has its own unique set of challenges and concerns. By grouping sites in this manner, and using Managed Access Systems (MAS) as the technology solution, BOP can provide a gross estimate of the required pre-deployment efforts to modify the facility infrastructure, deploy system electronics, and sustain the capability with a focus on efficacy, affordability, and maintainability. The current estimated cost to implement a viable cell phone detection technology in these three contexts ranges from \$795,000 for a rural site to \$3,080,000 for a metropolitan site.

Rural Sites Surveys and Deployments .....	\$795,000–\$1,795,000/Site
Light Urban Sites Surveys and Deployments .....	\$1,050,000–\$2,050,000/Site
Metropolitan Sites Surveys and Deployments .....	\$2,080,000–\$3,080,000/Site

The BOP emphasizes that any MAS solution should augment existing sound correctional procedures and physical security technologies already in operational daily use. There are 121 individual correctional institutions in the Bureau of Prisons; a rough order of magnitude estimate to deploy an enterprise-wide communications cellular device blackout using a managed access solution would be at least \$118 million to \$239 million or potentially more. It is important to note that it is premature to provide a definitive estimate for the required funding because an RFQ has not been completed and the technology continues to evolve and improve.

The legal hurdles Congress should consider in addressing this issue would be ensuring that legislative barriers to the implementation of such technology do not exist. (For example, laws relating to cellphone monitoring and interception should exclude prison environments.)

NEW TECHNOLOGY TO DISRUPT GANG NETWORKS

*Question.* Computer programs like Palantir have been successful in mapping terrorist networks in Afghanistan and human trafficking rings in the United States. How do you plan to direct the Department to incorporate new technology into its investigations to map, track and disrupt criminal gang networks in the United States?

*Answer.* The Department of Justice utilizes a wide array of technologies and techniques to disrupt criminal and gang networks across the Nation, some of which cannot be disclosed in an open setting. One technology that the FBI’s Criminal Investigative Division’s Violent Crime and Gang Section (VCGS) and the Criminal Intelligence Section (CIS) actively utilize are geospatial platforms to map and plot the density of gang members, their affiliations and track violent crime statistics.

Geospatial maps are further utilized to assist in interpreting cellular data and geospatially plotting the movements of perpetrators and victims of crime. New technologies are also being explored to assist our task forces in exploiting all avenues of criminal behavior, including social media, which is utilized by gangs for recruitment and communication purposes.

Specific advances in technology have been made to enhance surveillance activities by rapidly acquiring GPS and pertinent telephonic information, pen register data, and directly feeding this data to operational field surveillance agents to track and disrupt gang activity. The FBI will continue to explore all avenues, including the acquisition of new technologies, to assist efforts to combat the gang threat.

COMBATTING GANGS

*Question.* Numerous neighborhoods in Chicago, including the Kenwood and Pullman areas, have been economically stifled by the presence of gangs like the Gang-

ster Disciples. How will you lead the DOJ effort to remove gangs of national significance from these communities?

Answer. The Department is committed to rooting out criminal organizations, including gangs like the Gangster Disciples, from communities that have suffered at their hands, whether through violence, intimidation, addiction, or economic depression. United States Attorneys' Offices around the country work with the Criminal Division's Organized Crime & Gang Section (OCGS) prosecutors who bring specialized knowledge about both the targeted criminal enterprises and a toolbox of laws, tactics, and strategies to dismantle the most nefarious gangs in the United States. These prosecutors have brought sweeping RICO indictments and successful prosecutions against gangs across the country, including MS-13, Latin Kings, Imperial Gangsters, Aryan Brotherhood and others.

The U.S. Attorney's Office (USAO) for the Northern District of Illinois is similarly experienced and committed to using all available tools and strategies to eradicate gang violence. The USAO recently created a Violent Crimes section, comprised of prosecutors dedicated to the sole mission of combatting violent crime in the District. The USAO is working closely with State and local prosecutors and law enforcement agencies, including the Cook County State's Attorney and Chicago Police Department, to ensure a coordinated approach to target gang violence, including through its Organized Crime and Drug Enforcement Task Force strike force. Recently, the USAO charged the patriarch of a Gangster Disciples faction and 34 other defendants who allegedly sold heroin and crack cocaine on Chicago's west side. The USAO has also brought a racketeering conspiracy prosecution that alleges murders, attempted murders, solicitation to commit murder, robberies and the operation of a drug trafficking organization against nine members of the Hobos Street Gang, a tight-knit, violent crew who banded together from factions of the Gangster Disciples and Black Disciples street gangs. Moreover, the USAO has obtained strong sentences against high ranking gang leaders in Chicago including: in April 2015, against a high-ranking Black Disciples leader sentenced to 15 years in prison; in September 2014, against a high-ranking Traveling Vice Lords leader sentenced to 35 years in prison; and in 2012, against the highest-ranking leader nationwide of the Latin Kings sentenced to 60 years in prison, the statutory maximum, after being convicted at trial under RICO and other charges. The Department will continue its efforts to stem violence in Chicago and elsewhere through such vigorous prosecutions using all the tools at our disposal.

The Violence Reduction Network (VRN) has been working with the City of Chicago extensively since the VRN was launched in September 2014 by former Attorney General Eric Holder. The VRN is a partnership across the Department of Justice that seeks to leverage programmatic and Federal law enforcement training and technical assistance resources to support cities with sustained high rates of violence.

Although the City of Chicago has not requested assistance with gang intervention or prevention, we are available to assist. The VRN can support advanced gang training for the Chicago Police Department. We can work with the Federal Bureau of Investigation (FBI) National Gang Intelligence Center (NGIC) to provide gang training on investigative and prosecution strategies to include creation of a regional gang threat assessment that would describe the gangs that are active in Chicago, their behaviors, size, organization structure, etc. FBI is a critical partner in VRN efforts to enhance public safety in our sites.

#### MONITORING SOCIAL MEDIA FOR THREATS

*Question.* Recently, social media accounts claiming to be associated with the terror group ISIS posted threats against targeted locations in Chicago, including the Old Republic Building on North Michigan Avenue. Will you direct the Federal Bureau of Investigation to hire more Arabic-speaking investigators to effectively monitor social media for threats against U.S. cities?

Answer. In an effort to address the Arabic language needs of the FBI, the Bureau's Foreign Language Program pursues a number of initiatives to recruit from ethnic Arabic and heritage speaker communities. The FBI continues to provide training for special agents in Arabic, and has recently renewed an incentive program for foreign language use to develop in-house capacity.

Additional information is classified. The Department will work with the subcommittee to ensure that a response is provided in an appropriate manner.

#### SHUTTING DOWN HUMAN TRAFFICKING WEB SITES

*Question.* Online classified Web sites like backpage.com continue to facilitate prostitution and human trafficking. How will the Department of Justice shut down these Web sites and prosecute individuals that aide and abet sex traffickers?

Answer. The Department shares Congress' grave concerns about the role of Web sites in the commercial sexual exploitation of minors. The Department has vigorously pursued sex traffickers, including those who use the Internet to illegally exploit minors, and thoroughly investigates Web sites that may be aiding and abetting child sex trafficking.

As a general matter, any prosecution of an online classified Web site operator specifically for advertising child sex trafficking would require the Government to prove beyond a reasonable doubt that the Web site operators actually knew that a particular advertisement that they accepted offered sex with a child. Sufficient evidence of a crime against children is not indicated, however, where an advertisement on its face is for a legal service offered by someone who appears to be an adult.

Where evidence of criminality exists, the Department will aggressively investigate and prosecute using all appropriate statutes. The recent prosecution of the owner and operator of myRedBook.com and sfRedBook.com exemplifies the Department's determination in this regard. In June 2014, the FBI seized the Web sites. Eric Omuro, the owner of the sites, and one of his employees were arrested. Both pleaded guilty to using a facility of interstate commerce with the intent to facilitate prostitution. On May 21, 2015, Omuro was sentenced to 13 months in prison. As part of his plea agreement, Omuro agreed to forfeit more than \$1.28 million in cash and property as well as the sfRedBook.com and myRedBook.com domain names.

While the myRedbook.com Web site purported to provide legal services such as "Escort, Massage, and Strip Club Reviews," the evidence showed that it was used to host advertisements for prostitutes, complete with explicit photos, menus of sexual services, hourly and nightly rates, and customer reviews of sex workers' services. Evidence demonstrated that the Web site defined acronyms for sex acts in graphic detail in a "Terms and Acronyms" section and provided a section to review and rate prostitution services, offering special access to the reviews for a fee. If a customer purchased a membership with myRedbook, they received benefits such as early and enhanced access to sex worker reviews, enhanced sex worker review search options, and access to additional VIP forums, among other things. According to an affidavit submitted in connection with the sentencing hearing, the FBI identified more than 50 juveniles who were also advertised on myRedBook for the purpose of prostitution. Furthermore, despite being contacted by the National Center for Missing and Exploited Children (NCMEC) in 2010, myRedBook never registered to participate in the center's CyberTipline, which receives leads and tips regarding suspected crimes of sexual exploitation committed against children, and never communicated with NCMEC.

The prosecution of the operators of myRedbook.com and the shuttering of the Web site demonstrate that the Department will pursue viable prosecutions using existing legal tools, when the elements of the statutes have been met and can be proven in court beyond a reasonable doubt.

#### USING INNOVATIVE TECHNOLOGY TO COMBAT HUMAN TRAFFICKING

*Question.* How is the DOJ incorporating the use of new innovative technologies in its strategy to combat human trafficking? How will the Department partner with local law enforcement to deploy these types of technologies and ensure their use?

*Lead-in information from original document.—*

It is critical that local law enforcement agencies be equipped with the latest innovative technologies to combat trafficking and rescue victims. The Web-based software called Memex, which was developed by the Defense Advanced Research Projects Agency (DARPA) and recently used in New York City, is one such example.

Answer. Through the Bureau of Justice Assistance (BJA)-funded Human Trafficking Advanced Investigators training, human trafficking investigators are exposed to a variety of technological tools and resources that can be used in their efforts to combat human trafficking. Human Trafficking Law Enforcement Task Force grantees are permitted to purchase investigative tools and technology with grant funds and use grant funds to attend trainings on the use of such investigative tools. BJA will ensure that the new Human Trafficking Law Enforcement Training and Technical Assistance provider (being funded with fiscal year 2015 funds) promotes the use of Web-based software for human trafficking investigative purposes in the technical assistance provided to task forces.

The Office of Juvenile Justice and Delinquency Prevention (OJJDP) funds the Internet Crimes Against Children (ICAC) Task Force Program. The 61 ICAC task forces focus on all forms of technology-facilitated crimes against children, including child sex trafficking. Through its regularly scheduled meetings with the ICAC task

forces (generally three times a year), OJJDP demonstrates promising investigative tools that each task force can deploy within their own jurisdictions. For example, last fall OJJDP brought in Emily Kennedy (Carnegie Mellon University) to provide a demonstration on her tool “Traffic Jam” (funded in part by DARPA) which mines the deep Web and helps law enforcement identify offenders and rescue victims. OJJDP will continue to ensure that its ICAC task forces are exposed to promising tools and resources that can assist them in their efforts to protect children from on-line exploitation.

The FBI leads 71 Child Exploitation Task Forces and is associated with over 100 human trafficking task forces and working groups. These task forces and working groups, and vetted technologies, are available to address various forms of human trafficking. In an effort to support law enforcement entities throughout the country, the FBI is currently engaged in a process to enhance the Innocence Lost Database (ILD) to automate the analysis of various governmental, non-governmental, and open source data sets in an effort to identify enterprises responsible for the commercial sex trafficking of children. Additionally, the ILD project will incorporate biometric capabilities to more efficiently and effectively identify and recover child victims. In regards to the Memex Project, DARPA has sponsored this initiative in an effort to develop capabilities which identify online indicators of human trafficking. Understanding that technical needs vary from agency to agency, DARPA has designed the Memex Project so that agencies can utilize the independent technical solutions developed by the Memex Project team. The FBI collaborates with the Memex Project team to share best practices associated with this sophisticated technical development.

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QUESTIONS SUBMITTED BY SENATOR JOHN BOOZMAN

CITIZEN SAFETY

*Question.* Please explain how you plan to provide our citizens with adequate security when the Department is seemingly focused on implementing our President’s unconstitutional immigration directive?

*Lead-in information from original document.—*

Your prepared remarks state that your top two priorities are “the safety of our citizens and our national security.” In looking at the overall budget request, it’s obvious that the Department’s priority is immigration, with a 40 percent increase from fiscal year 2015. In comparison, your lowest request for fiscal year 2016, is a 1 percent increase for law enforcement components such as investigating violent crime, trafficking of firearms, international drug trafficking organizations, piracy of intellectual property, and healthcare fraud.

*Answer.* While the fiscal year 2016 president’s budget does include a 38.8 percent increase for the Executive Office for Immigration Review (EOIR), this is predominantly to address the current caseload pending before the immigration courts, which ended fiscal year 2015 with just over 456,500 pending cases. These requested additional resources for EOIR are not tied to the President’s immigration executive action from November 2014. The additional funding requested for EOIR in fiscal year 2016 is critical to moving the current caseload through the immigration courts in a timely and efficient manner.

Furthermore, the Department’s 2016 request for immigration-related activities is 8.6 percent below the fiscal year 2015 enacted level due to significant decreases to the Bureau of Prisons and the Office of Justice Programs. The President’s 2016 budget proposes only slight to moderate increases for immigration activities for Civil Division, Criminal Division, U.S. Marshals Service and Federal Prisoner Detention, and no increase for the U.S. Attorneys for immigration activities.

The Department of Justice’s fiscal year 2016 budget request does continue to prioritize resources for national security and cyber security, with increases of \$106.8 million to develop the Department’s capacity in a number of critical areas including: countering violent extremism and domestic radicalization; counterterrorism; cybersecurity, both domestic and abroad; information sharing and collaboration with the Intelligence Community; and training and technical assistance for our foreign partners. In addition, enhancements of \$23 million will support the Drug Enforcement Administration’s efforts to combat illicit drugs like heroin and other emerging drug trends. Additional violent crime initiatives that tackle gang violence, crimes against children, and promote gun safety also see increases over fiscal year 2015 enacted levels.

## VIOLENCE REDUCTION NETWORK SITES

*Question.* Is this a program you plan to continue to offer and support? If so, what will you do within the U.S. Attorney's Office to compliment the work of the local and Federal agencies there?

*Lead-in information from original document.—*

As a response to the violent crime in Little Rock and West Memphis, Arkansas, I understand that both are being considered as VRN (Violence Reduction Network) sites, however, I do not see any funding going to the VRN program.

Answer. Launched in 2014, the Violence Reduction Network (VRN) Initiative synthesizes existing resources from across Department of Justice (DOJ) law enforcement agencies (Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF); Drug Enforcement Administration (DEA); Federal Bureau of Investigation (FBI); United States Marshals Service (USMS)); and grant program offices (Office of Justice Programs (OJP), Office of Community Oriented Policing Services (COPS), and Office on Violence Against Women (OVW)), with subject-matter expertise from the criminal justice, local government, advocacy, and academic communities; lessons learned from evidence-based violence reduction initiatives; and key data from organizations representing other disciplines, increasing the capacity of local communities to implement data-driven solutions to increase public safety. In addition, the United States Attorneys' Offices are critical partners in the VRN.

The organization and structure of the VRN sites are designed to convene Federal, State, and local law enforcement and key stakeholders in the selected sites around the issue of violence reduction and includes the following:

- United States Attorneys' Offices and local law enforcement leadership serve as the local points of contact and coordinate activities and services for the VRN sites.
- A Strategic Site Liaison (SSL) works with each site to coordinate project services and support enhancement of the site's violence reduction efforts (paid with OJP's training and technical assistance funds).
- A DOJ Program Office Champion from OJP, COPS, or OVW serves as the point of contact for the site to effectively navigate access to DOJ programmatic resources.
- A DOJ Law Enforcement Champion from ATF, DEA, FBI, or USMS serves as the point of contact for the site to effectively navigate access to DOJ law enforcement resources.
- A VRN Analyst, provided by BJA's training and technical assistance (TTA) provider, supports the site's violence reduction efforts (paid with OJP's training and technical assistance funds).
- DOJ law enforcement agencies (ATF, DEA, FBI, USMS) support local violence reduction efforts through their field offices.

Camden, New Jersey, Chicago, Illinois, Detroit, Michigan, Oakland/Richmond, California, and Wilmington, Delaware were the first cities selected to participate in the VRN. In fiscal year 2015, five additional cities were selected to join the VRN, including Little Rock and West Memphis. OJP is working closely with the U.S. Attorneys to discuss the VRN and how it can leverage Federal resources to support Little Rock and West Memphis's efforts to address violent crime.

Although the VRN does not provide direct funding to participating sites, the resources and expertise dedicated to selected communities through this partnership opportunity are substantial. Within the past 6 months, and with the 10 current VRN sites, VRN has successfully delivered on (or is currently coordinating) over 118 resource and training and technical assistance requests; reaching 722 individuals representing over 5,585 training hours.

The VRN complements DOJ's Smart on Crime Initiative. The VRN leverages lessons learned and the vast array of existing resources across DOJ law enforcement and grant-making agencies to deliver strategic, intensive, training and technical assistance in an "all-hands" approach to reduce violence in select cities. Sites identified as candidates for the VRN are cities that have experienced precipitous increases in violent crime and have violent crime rates that exceed the national average. They also represent jurisdictions in different geographic regions with distinctive characteristics, such as multiple Federal initiatives or a unique law enforcement structure. DOJ makes a 2-year commitment to cities selected to join the VRN.

Over the next 2 years, the goal of VRN is to deliver the following to the VRN sites:

- Resources, training, and technical assistance targeted to the sites' most urgent needs.

- A comprehensive and collective understanding of drivers of violent crime within a jurisdiction.
- An in-depth review of technical, legal, and policy-based obstacles to improve information sharing.
- Performance metrics and a sustainability plan to measure success and ensure continued progress through improved operational strategies, training, and policy enhancement.
- A committed focus at the Federal, State, and local levels on the identification of violent offenders and an all-hands approach towards holding them accountable through evidence-based practices and constitutionally based policing.
- A national community of practice around violence reduction.
- A training and technical assistance delivery model for violence reduction to cities across the Nation.

#### DRUG ADDICTION

*Question.* What are your enforcement and treatment strategies, such as drug diversion programs, for the growing epidemic of heroin abuse, and do you plan to accomplish these through the 1 percent funding increase you have requested?

*Lead-in information from original document.—*

Not only in Arkansas, but throughout the Nation, we are seeing a very dangerous addiction become a growing epidemic. This country is now dealing with individuals, from all walks of life and economic groups, who are turning to heroin and other opiates to feed their addiction that was often initiated from an addiction to prescription medicine. Many statistics I have seen discuss the doubling or tripling of heroin users over the past couple years.

Answer. We share the Committee's concerns about the serious threat to our communities posed by prescription drug abuse, addiction, and diversion. The fiscal year 2016 President's budget includes over \$8.2 billion for the Department's drug enforcement, prosecution, diversion and treatment efforts, a 5 percent increase over the fiscal year 2015 enacted level. The budget supports a strong response to the uptick in heroin abuse and other emerging drug trends, including additional resources for the Drug Enforcement Administration's (DEA) deconfliction and information sharing to attack the full range of drug trafficking threats. The Department's request also provides increases to thwart international drug trafficking organizations, and supports drug abuse education, prevention, and treatment.

The rise of heroin use and abuse of prescription opioids in the United States are some of the biggest challenges to public health and safety that we are currently facing. With DEA as the lead, and implemented in part through/in conjunction with the Organized Crime Drug Enforcement Task Forces (OCDETF) National Heroin Initiative, DOJ is working to dismantle the heroin supply chain and prevent the diversion of controlled substances. The uptick in heroin use and overdose coincides with the rise of prescription drug abuse.

Law enforcement plays a significant role in combatting the Nation's heroin problem. Heroin availability in the United States has steadily increased over the last few years as Mexican Drug Trafficking Organizations (DTO) have increased their production and trafficking of heroin to the United States. The Southwest Border (SWB) remains a particular concern as it is the most trafficked region in the United States. Based on the 2014 National Drug Threat Assessment, seizures at the SWB are up 160 percent from 2009 to 2013. DEA estimates that South America and Mexico accounted for approximately 96 percent of the heroin in the United States in 2012. DEA also estimates that Mexico's share has been steadily increasing from under 5 percent in 2003 to about 45 percent in 2012.

DEA has opened more than 7,300 Domestic and Foreign investigations related to heroin since 2009. The number of heroin cases opened in fiscal year 2014 accounted for over 13 percent of all cases over that same timeframe. Heroin cases have increased 141 percent from fiscal year 2007 to fiscal year 2014, and 30 percent from fiscal year 2013 to fiscal year 2014. Heroin arrests accounted for more than 16 percent of all DEA arrests in fiscal year 2014, ranking third behind cocaine and methamphetamine. Heroin arrests have increased 96 percent from fiscal year 2007, and increased 15 percent from fiscal year 2013 to fiscal year 2014. fiscal year 2014 was the first year heroin arrests surpassed marijuana arrests.

OCDETF data, which includes many DEA investigations but also investigations led by other Federal law enforcement agencies such as ATF and FBI, also shows an increasing trend of investigations involving heroin, which has recently been on the rise quarterly, and a similar trend in indictments with heroin charges annually. OCDETF investigations involving heroin increased by approximately 20 percent

from the fourth quarter of fiscal year 2013 to the third quarter of fiscal year 2015, rising from 1,211 to 1,440. At the end of fiscal year 2010, 10 percent of OCDETF indictments contained heroin charges, as compared with 15 percent at the end of fiscal year 2015. Currently, 16—or 40 percent—of the Consolidated Priority Organization Targets, the highest level targets in interagency drug enforcement, are involved in heroin trafficking. To combat this serious nationwide threat, OCDETF has adjusted its resources to target these investigations in an attempt to reduce the supply.

In addition to supporting the large volume of traditional OCDETF cases focusing on disrupting and dismantling high-level criminal networks responsible for distribution of heroin in the United States, in fiscal year 2015 OCDETF developed a new national initiative designed to combat the rise in heroin overdoses and deaths in a new way. The OCDETF National Heroin Initiative has two major components: (1) national coordination of, and information sharing in, heroin investigations and prosecutions; and (2) a funding mechanism to support local and regional “outside-the-box” initiatives designed to fill in existing gaps in the development of significant heroin cases.

OCDETF is uniquely situated through its coalition of U.S. Attorneys, Federal agencies, and State and local task force partners to actively engage in the fight against the heroin and opioid epidemics through promoting the goals of collaboration, communication, and interdependent, real-time reporting of cooperation and progress in its ranks. Toward that end, OCDETF worked with the United States Attorney community to designate and fund a full-time Assistant United States Attorney with current expertise in heroin investigations and prosecutions to act as OCDETF’s National Heroin Coordinator, detailed to the OCDETF Executive Office since May 17, 2015. Since the appointment of the National Heroin Coordinator, nationwide coordination efforts include:

- Sixteen strategic initiatives have been approved for districts and regions under acute attack from the heroin and opioid epidemics, including Baltimore, Boston, Cleveland, St. Louis, Northern Illinois, Pennsylvania, Virginia, and West Virginia. The OCDETF National Heroin Coordinator works with the funded districts and regions to ensure real-time information sharing, efficient and effective use of resources, and collaboration amongst nontraditional partners, such as State medical examiners, coroners and State health departments.
- Each of the 93 U.S. Attorneys and the regional offices of OCDETF’s Federal components have designated points of contact for all heroin and opioid issues.
- OCDETF’s National Heroin Coordinator has met with top officials in the Office of National Drug Control Policy, Office of National Intelligence/Information Sharing Environments, Executive Staff of the DEA, the DEA Research Laboratory, and the OCDETF Fusion Center to discuss potential joint efforts against the heroin and opioid threats to the Nation.
- Collaboration is ongoing with Federal Bureau of Investigation regarding emerging heroin threats.
- The OCDETF Heroin Coordinator has attended or will attend Heroin/Opioid Summits in Missouri, Minnesota, Wisconsin, and other States as invited, as well as impacted areas where best practices are being employed in the heroin fight, such as Minneapolis and Boston, so those practices can be memorialized and disseminated for use by law enforcement and prosecutors in the fight against heroin and opioid use and abuse.
- The Coordinator has engaged in extensive briefings with the leaders of New Jersey’s cutting edge Drug Monitoring Initiative (DMI) to explore replication of the DMI program in a national level.
- OCDETF will host a national conference in November of 2015 for all U.S. Attorney and Federal agency heroin/opioid points of contact. The conference, entitled “No Boundaries—United in the Fight” will bring stakeholders together for education, sharing of successes and challenges, and exploration of enhanced, proactive best practices in the fight against the heroin and opioid epidemics. Additionally, OCDETF and DEA are working closely to support similar efforts going forward.

As a direct result, local and regional efforts are enhanced by the influx of new ideas and approaches to the common challenges.

To enhance the work already being performed in the field and by the OCDETF National Heroin Coordinator, OCDETF has also dedicated a limited amount of operational funds to support the OCDETF National Heroin Initiative. This funding does not replace or supplement OCDETF’s existing base funding that already supports OCDETF-level multi-agency, multi-jurisdictional cases targeting prescription drug abuse or heroin. Rather, OCDETF’s National Heroin Initiative provides small amounts of operational “seed money” to help law enforcement agencies and prosecu-

tors work collaboratively to fill existing gaps in intelligence, enforcement activities, and prosecutions that currently hinder the development of single-instance heroin overdose investigations into multi-agency, multi-jurisdictional cases against the criminal organizations with the most impact on our communities. This funding is intended to assist the agencies and prosecution offices with extraordinary expenses that cannot otherwise be funded within currently available resources.

Internationally, DEA's Sensitive Investigative Unit (SIU) program partners with host nations to combat illegal drug trafficking at the source. SIUs comprise groups of host nation investigators that are polygraphed, trained, equipped, and guided by DEA. DEA manages 13 SIUs including programs in Mexico and Colombia, countries with strong links to the U.S. heroin trade.

DEA's Diversion Control Program (DCP) prevents, detects, and investigates the diversion of pharmaceutical controlled substances and listed chemicals from legitimate channels using criminal, civil, and regulatory tools to identify, target, disrupt, and dismantle individuals and organizations responsible for the diversion and illegal distribution of pharmaceutical controlled substances. The DEA believes the increased heroin use is driven by many factors, including an increase in the misuse and abuse of prescription psychotherapeutic drugs, specifically opioids. Part of the DCP's mission is to identify and minimize the diversion of pharmaceutical controlled substance, such as opioids, and Tactical Diversion Squads (TDSs) are one method DEA employs to combat this. DEA's TDSs incorporate the enforcement, investigative, and regulatory skills sets of DEA Special Agents, Diversion Investigators, other Federal law enforcement, and State and local Task Force Officers. As such, the TDSs are DEA's primary method of criminal law enforcement in the DCP. The expansion to 66 operational TDS's in the U.S. has enabled DEA's Diversion Groups to concentrate on the regulatory aspects of the Diversion Control Program. Further, in order to target the most likely offenders of diversion, the DCP has increased the frequency of scheduled investigations registrants in selected business activities.

The Harold Rogers Prescription Drug Monitoring Programs (PDMP) monitor prescription drug sales and also play an important role in identifying doctor shopping and diversion, particularly at the retail level where no other automated information collection system exists. How PDMPs are organized and operated varies among States. Each State determines which agency houses the PDMP; which controlled substances must be reported; which types of dispensers are required to submit data (e.g., pharmacies); how often data are collected; who may access information in the PDMP database (e.g., prescribers, dispensers, or law enforcement); the circumstances under which the information may (or must) be accessed; and what enforcement mechanisms are in place for noncompliance.

DOJ supports more than 2,900 specialty courts that connect over 142,000 people convicted of drug-related offenses with the services they need to avoid future drug use and rejoin their communities. These courts include adult drug courts, veterans' treatment courts, DWI courts and others. DOJ provides financial support, training, and technical assistance to many of these courts annually. DOJ is also urging first responders to carry naloxone, a drug which restores breathing during a heroin or opioid overdose. The Department has created an online tool kit to assist these efforts.

DOJ continues to increase support for drug abuse education, prevention, and treatment through partnerships with doctors, educators, community leaders, and police officials. As directed by Congress, the Department has joined with the Office of National Drug Control Policy to convene an interagency Heroin Task Force to confront this challenge. This Task Force is co-chaired by the U.S. Attorney for the Western District of Pennsylvania and the Office of National Drug Control Policy Deputy Director for State, Local and Tribal Affairs. The Department, DEA, and more than 28 Federal agencies and their components are actively participating on the Task Force. Other participants include medical community, enforcement, public health, and education experts. The Task Force is taking an evidence-based approach to reducing the public health and safety consequences caused by heroin and prescription opioids. We expect the Task Force to submit its comprehensive Strategic Plan to the President and Congress by the end of 2015.

The fiscal year 2016 President's budget would allow DEA to maintain and enhance valuable drug enforcement tools. The request includes funding to expand DEA's case management and deconfliction systems and enhance the IT infrastructure at the El Paso Intelligence Center (EPIC). EPIC's primary mission is to support the law enforcement community through improved information sharing. EPIC funding will provide Federal, State, local, tribal, and international law enforcement agencies with faster responses and improved access to investigative tools. At the request of State and local partners, DEA has instituted a Community of Interest site on the EPIC Web portal specifically for the exchange of information related to her-

oin. The fiscal year 2016 President's budget supports the creation of a new financial investigation unit as part of DEA's Bilateral Investigation Units at the Special Operations Division to enhance DEA's efforts in targeting the financial networks of foreign-based drug traffickers. In addition, the fiscal year 2016 President's budget requests funding to sustain and further develop the capacity and capabilities of existing SIUs. This funding will support training, vetting, program coordination, judicial wire intercept systems and other IT-related requirements. The fiscal year 2016 budget also includes increases for grants to help State and local governments develop residential substance abuse treatment programs and maintain community-based aftercare services for offenders.

#### CYBER SECURITY

*Question.* How does the department plan to utilize the requested \$106.8 million increase to handle our Nation's cyber security breaches, especially the cyber hacking led by ISIS?

*Answer.* The response to this question entails classified information. The Department will work with the subcommittee to answer this question in an appropriate manner.

#### ASSETS FORFEITURE FUND

*Question.* Can you please explain whether you believe the Civil Asset Forfeiture program needs to be reformed, and if so, how? Can you also put Civil Asset Forfeiture into perspective for me, by telling me how many seizures are legitimate and how many are not? How many individuals have made claims for their property in comparison to how many have not, and would that help to indicate how many people are actual "victims" of this program?

*Lead-in information from original document.—*

I would like to talk about Civil Asset Forfeiture for a minute. I hear that civil asset forfeiture is a slush fund for law enforcement and that innocent individuals are being robbed of their property and money. I also hear that the funds augment law enforcement agencies discretionary budgets to further target criminal activity. I would like to see some hard figures on this issue so we may better determine how to move forward.

*Answer.* Asset forfeiture is a critical legal tool that serves a number of compelling law enforcement purposes. The Department is committed to ensuring that asset forfeiture laws are used appropriately and effectively to deprive criminals of the proceeds of their crimes, break the financial backbone of organized crime syndicates and drug cartels, and to recover stolen property that may be used to compensate victims and deter crime.

Civil forfeiture is often the only mechanism by which the Government can take criminally tainted assets out of circulation because criminals often go to great lengths to insulate themselves from the proceeds and instrumentalities of their criminal acts—including by giving those assets for safekeeping to individuals who knowingly accept and retain the criminally tainted property, even though they did not engage in the criminal activity themselves. Civil asset forfeiture is the only avenue to recover proceeds of crime if the criminal is dead, a fugitive, or where stolen artifacts are recovered but no defendant can be identified.

Not only does asset forfeiture deprive criminals of their illicit proceeds, it also enables the Government to compensate victims of crime. In fact, since 2000, the Department has returned over \$4 billion in assets to the victims of crime through asset forfeiture, of which \$1.87 billion was recovered civilly. In addition, the Department expects to distribute approximately \$4 billion in civilly forfeited assets associated with the Madoff fraud scheme. At that point, victim compensation from forfeited funds will far exceed the nearly \$5.4 billion of forfeited funds that have been reinvested in law enforcement to fight crime as part of the Equitable Sharing program.

Federal law authorizes the Department to share federally forfeited property with participating State and local law enforcement agencies through a program known as Equitable Sharing. The Equitable Sharing Program was created by Congress, in part to strengthen law enforcement by fostering cooperation among Federal, State and local law enforcement agencies. Once a forfeiture is successfully completed, the Federal Government disposes of the assets and then pays expenses and provides for any applicable victim compensation in a case. Only after these expenses and victim payments are deducted, if there are any remaining proceeds, are funds available for equitable sharing with State and local law enforcement agencies that participated in the underlying law enforcement action that led to the seizure or forfeiture of the asset. The Department has many procedures in place and a host of prohibitions on

how equitable sharing funds may be used to ensure that they supplement but do not supplant the funds allocated to law enforcement agencies by State and local governments.

That said, the Department takes seriously the concerns raised about civil asset forfeiture and has responded with significant, carefully-considered reforms including the prohibition on adoptions (which occur when a State or local law enforcement agency seizes property pursuant to State law and requests that a Federal agency take the seized asset and forfeit it under Federal law) and restrictions on the seizure of structured funds. We are continuing a comprehensive review of the entire asset forfeiture program in order to improve and strengthen it, while preserving the rule of law and the rights of property owners.

*Question.* Can you also put Civil Asset Forfeiture into perspective for me, by telling me how many seizures are legitimate and how many are not?

*Answer.* Assets can only be seized by the Government either pursuant to the seizure warrant issued by a judge, or pursuant to an exception to the warrant requirement. In either instance, however, the law requires that there be probable cause linking the asset directly to criminal activity. The probable cause requirement is a core tenet of our legal system and is the very same standard of proof required to place an individual under arrest. The forfeiture process does not allow for the seizure of property in the absence of probable cause.

*Question.* How many individuals have made claims for their property in comparison to how many have not, and would that help to indicate how many people are actual “victims” of this program? I would like to see some hard figures on this issue so we may better determine how to move forward.

*Answer.* Civil asset forfeiture is used to recover the ill-gotten proceeds of crime and, in many instances, returning the forfeited funds to victims of crime who have suffered financial losses at the hands of criminals. In the forfeiture process, it is essential that we protect the due process rights of innocent individuals. Recognizing this, Congress put safeguards in place to protect innocent property owners when it passed the Civil Asset Forfeiture Reform Act (CAFRA). These protections are essential to preserve the integrity of the Asset Forfeiture Program and to ensure that individual due process rights are preserved and protected. Even where the Government has borne its burden of proving that property is linked directly to crime, CAFRA allows a property owner to defeat a forfeiture if they can show they are an innocent owner. In such cases, the Government must return the seized assets to the innocent owner, who may also be entitled to attorney’s fees.

In the past decade, 1,952 claims have been filed in connection with 48,927 (approximately four percent) assets seized for administrative or civil forfeiture. Of those 1,952 claims, 878 of those assets (approximately 45 percent) have been returned either to the owner or another claimant with a property interest in the asset, such as a lienholder.

#### AMMUNITION BAN

*Question.* As the new Attorney General, will you revive this ammunition ban, or attempt to implement any other ammunition ban?

*Lead-in information from original document.—*

On February 13, 2015, the ATF released a framework on how they proposed to apply the “Sporting purposes” test to exempt ammunition that they state, qualifies as armor piercing. Although through this proposed framework, ATF would have reversed an exemption that was granted 29 years ago for target shooting ammunition that is popular for use in modern sporting rifles. After public outrage and multiple letters from Congress, ATF withdrew the framework.

*Answer.* Congress enacted the prohibition on armor piercing ammunition in the Law Enforcement Officer’s Protection Act of 1986 (LEOPA). LEOPA provides that all ammunition containing certain specified metals that may be fired from a handgun is defined to be “armor piercing” and prohibits the manufacture and sale of all such ammunition. The statute further provides, however, that the Attorney General may exempt particular rounds of ammunition that otherwise meet the statutory definition of “armor piercing” upon a determination that the round at issue is “primarily intended for sporting purposes.” The authority to make exemption determinations has been delegated to ATF.

ATF drafted the proposed framework in response to a large influx of new “sporting purpose” exemption requests and was designed to provide industry and the public with clear, objective guidance on the criteria ATF would apply to those requests. In crafting the criteria for the proposed framework, ATF’s foremost obligation was

to ensure that those criteria were consistent with the primary objective of LEOPA—the protection of law enforcement from the threat posed by ammunition used in handguns.

In light of the significant number of comments received, ATF has decided to cease with finalizing the proposed framework. ATF is currently reviewing the comments to inform future steps, if any, and additional process—including public notice and comment—will be afforded prior to any further action. At this time, ATF has no plans to further consider reversing the standing exemption for 5.56 x 45mm rounds of ammunition in M855 and SS1109 cartridges. The process of reviewing and considering the large number of comments received will take time, and I look forward to working with Congress and all interested parties should any further action be proposed.

#### IMMIGRATION COURT PROGRAM

*Question.* Your budget request includes a 40 percent increase for improvements to the immigration court system. Could you explain the justification for such a significant increase? Also, could you please share how many immigrant applications are in the current backlog and which cases would be prioritized for adjudication if this amount were authorized?

*Answer.* The Executive Office for Immigration Review's (EOIR) fiscal year 2016 budget request is a 38.8 percent increase over fiscal year 2015 enacted levels and includes \$124.3 million in program increases. These program increases include additional funds for the following: additional immigration judge teams; immigration court support; legal representation for unaccompanied children; expansion of the legal orientation program; and information technology modernization. These program enhancements will provide EOIR funding to increase staffing to more rapidly address the large volume of pending cases and will increase the efficiency of the courts through increased representation and updated electronic and communication efforts. Specific information about each of EOIR's requested program increases follows.

—*Immigration Judge teams/Immigration Court Support.*—The fiscal year 2016 budget request includes \$60 million to add 55 Immigration Judge Teams, and \$1.3 million to add 15 attorneys to support the agency's mission by supporting the immigration judge corps and providing legal assistance with immigration matters before the courts. These two program increases are necessary to provide sufficient resources to adjudicate the cases before the immigration courts. Cases received at EOIR are inextricably tied to Department of Homeland Security (DHS) enforcement efforts. As DHS places more individuals into proceedings before EOIR, the number of adjudicators must increase in order to address new cases as well as the pending caseload. These increased funds will provide EOIR the resources to hire additional immigration judges and provide those immigration judges with the necessary staff support and work space to adjudicate cases.

—*Legal Representation for Unaccompanied Children.*—The fiscal year 2016 budget request includes \$50 million in 2-year funding for the legal representation of unaccompanied children. When unaccompanied children have legal representation from the beginning of their immigration court proceedings, we expect that immigration courts will be able to reduce the number of continuances granted for the purpose of obtaining counsel, preparing any applications for relief, and gathering evidence. In addition, counsel can facilitate court proceedings, resulting in faster hearings and earlier identification of relevant legal issues. All of these factors will assist in reducing EOIR's case backlog while providing efficient adjudicatory proceedings.

—*Legal Orientation Program (LOP).*—The fiscal year 2016 budget request includes \$10 million for the expansion of the LOP. This requested increase will expand the successful LOP and continue to improve efficiencies in immigration court proceedings for detained aliens by increasing their awareness of their rights and the overall immigration proceeding process. Independent research and evaluation reports have shown that LOP participants complete their immigration court cases in detention an average of 12 days faster than detainees who do not participate in an LOP. The requested additional funding will respond to elevated demand at existing DHS sites and enable LOP to add additional sites.

—*Information Technology Modernization.*—The fiscal year 2016 budget request includes \$3 million for information technology modernization to provide an update to EOIR's electronic systems, improving the efficiency of processing case materials and other data communication efforts. This program increase will go towards the planning and development of updates to improve EOIR's electronic

systems. The improvement of EOIR's court and case management systems will enhance EOIR's ability to meet core mission functions by increasing efficiencies and allowing more staff time to focus on EOIR's adjudications and other responsibilities. An update of EOIR's electronic systems will also allow for better communications with DHS law enforcement entities currently using EOIR case information.

Regarding the pending caseload, as of September 30, 2015, EOIR had 456,500 proceedings pending before the immigration courts. Per the June 2014 Presidential directive to process priority cases as fairly and as quickly as possible, EOIR realigned its adjudicative priorities, and refocused EOIR's immigration court resources. In July 2014, EOIR added new priorities to its pre-existing priority for detained cases. EOIR's priority cases now include those individuals whom DHS has identified as recent border crossers who are unaccompanied children, adults with children in detention, adults with children released through Alternatives to Detention (ATD), and other individuals in detention.

#### LEGAL ORIENTATION PROGRAM

*Question.* Is the department intending to use the LOP authorized funds to provide work authorization to those afforded deferred action by the President's executive order?

*Lead-in information from original document.—*

I understand the Legal Orientation Program operates utilizing nonprofit legal service agencies to provide information to immigrant detainees to assist in their removal process. Please describe how this program has been successful and explain why you are requesting an additional \$116 million to support this program.

*Answer.* The fiscal year 2016 budget request includes an additional \$10 million, not \$116 million, to expand the successful Legal Orientation Program (LOP). EOIR has carried out the LOP since 2003 and, by fiscal year 2014, the LOP was able to serve roughly one-third of all detained aliens in immigration court proceedings. Through the LOP, representatives from nonprofit organizations provide comprehensive explanations about immigration court procedures along with other basic legal information to large groups of detained individuals.

This requested increase of \$10 million will expand the LOP and continue to improve efficiencies in immigration court proceedings for detained aliens by increasing their awareness of their rights and the overall immigration proceeding process. Research and evaluation reports show that LOP participants complete their immigration court cases on average 12 days faster and spend on average 6 fewer days in ICE detention than detainees who do not participate in an LOP. The LOP is currently in 30 locations, 28 of which are ICE detention facilities.

LOP funds have not and will not be used to provide work authorization to those afforded deferred action by the President's executive order. The LOP does not provide legal representation, and the DOJ has no intention of changing this policy in the future. The LOP assists individuals representing themselves pro se by helping them understand the various legal options available to them and, where available, referring individuals to pro bono counsel, not funded under the LOP. The LOP provides information on legal options that may be available to detainees, it does not provide any direct assistance in carrying out those options. Thus, while an LOP provider may explain what deferred action is, and may explain what is required to gain work authorization, the individual would need to seek those actions on their own or through the use of counsel that is separate and distinct from the LOP contract.

#### CONVICTED FELONS POSSESSING FIREARMS

*Question.* Is that the case? Who sets the thresholds? Can you tell me what the threshold is for a convicted felon in possession of a firearm in Arkansas?

*Lead-in information from original document.—*

In my research, I have learned that prosecuting convicted felons in possession of a firearm is a major factor in combatting violent crime, by taking these armed criminals off the street, often before they commit more acts of violent crime. I also understand that the U.S. Attorney's Office across the country has established certain thresholds that have to be met prior to accepting these cases.

*Answer.* All United States Attorneys' Offices (USAOs), including those for the Eastern and Western Districts of Arkansas, carefully review the acceptance of potential firearms cases in light of the guidelines set forth in the *Principles of Federal*

*Prosecution.* These principles require USAOs to consider whether a substantial Federal interest would be served by prosecution and whether a potential defendant is subject to effective prosecution in another jurisdiction. The USAOs evaluate the facts and circumstances on a case by case basis. In Arkansas, neither United States Attorney's Office has a threshold for acceptance of felon in possession cases. All felons found in possession of firearms are potentially subject to Federal prosecution. Practically speaking, this usually involves a discussion among Federal, State, and local prosecutors and law enforcement about the most appropriate venue for prosecution.

When considering these principles, USAOs assess, among other things, Federal law enforcement priorities; the nature and seriousness of the offense; the potential defendant's culpability; the strength of the evidence that would be admissible in court; a potential defendant's criminal history; the probable sentence or other consequences if the person is convicted federally as opposed to locally; the strength of the other jurisdiction's interest in prosecution; the other jurisdiction's ability and willingness to prosecute effectively; and the effectiveness of potential non-criminal sanctions.

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QUESTIONS SUBMITTED BY SENATOR DIANNE FEINSTEIN

BORDER TUNNELS

*Question.* What changes would you recommend that Congress make in order to strengthen this legislation and more effectively address this issue?

*Lead-in information from original document.—*

Since 2001, U.S. Customs and Border Protection has discovered at least 170 tunnels along the Southwest Border originating in Mexico and ending on the U.S. side of the Border, predominantly in California and Arizona. In the last 2 months, U.S. Customs and Border Protection discovered three tunnels leading from Mexico to Calexico and San Diego. I authored two bills that were signed into law in 2006 and 2012 to provide law enforcement and prosecutors with additional tools to investigate illegal tunnel activity and prosecute those responsible, including landowners who allow others to construct illegal tunnels on their land. However, it is my understanding that U.S. Attorneys are not bringing charges against individuals under the tunnel statute because they are having difficulty proving that the property owner knew about the tunnel. In fact, since 2011, the San Diego Tunnel Task Force has only successfully arrested and indicted two individuals using this legislation.

*Answer.* We appreciate your efforts to help combat crimes committed through the use of border tunnels. We have many available statutory tools depending upon the nature of crime related to a border tunnel. Often, the Controlled Substances Act is the best mechanism as it provides stiff penalties for drug crimes, which can include the use of border tunnels. In addition, some defendants have prior drug trafficking convictions and/or are career offenders, making their sentence exposure more significant when they are charged with crimes other than 18 U.S.C. § 555. To the extent the Department identifies additional statutory tools needed to address border tunnels, we would welcome the opportunity to work with you and your staff.

*Question.* How can we better ensure that property owners or renters on the U.S. side of the border who allow others to construct illegal tunnels on their property are brought to justice?

*Lead-in information from original document.—*

Since 2001, U.S. Customs and Border Protection has discovered at least 170 tunnels along the Southwest Border originating in Mexico and ending on the U.S. side of the Border, predominantly in California and Arizona. In the last 2 months, U.S. Customs and Border Protection discovered three tunnels leading from Mexico to Calexico and San Diego. I authored two bills that were signed into law in 2006 and 2012 to provide law enforcement and prosecutors with additional tools to investigate illegal tunnel activity and prosecute those responsible, including landowners who allow others to construct illegal tunnels on their land. However, it is my understanding that U.S. Attorneys are not bringing charges against individuals under the tunnel statute because they are having difficulty proving that the property owner knew about the tunnel. In fact, since 2011, the San Diego Tunnel Task Force has only successfully arrested and indicted two individuals using this legislation.

Answer. If we have evidence that property owners or renters on the U.S. side of the border “knowingly” or “recklessly” allow others to construct illegal tunnels on their property, then we can charge them under section (b) of 18 U.S.C. § 555. However, absent some corroboration from a cooperator, an admission by the defendant, or actually finding the owner or renter at the tunnel, prosecutors often face evidentiary issues in criminal cases against the landowners or renters.

There are no civil penalties for land owners who “negligently” or “acting in reckless disregard” allow the rental of their commercial warehouses or family residences to be used for construction of tunnels. Many commercial warehouses in San Diego and Imperial County have absentee owners who use local management companies to rent their warehouses. Establishing civil penalties within this statute would place the landowners on notice and liable—in a civil setting—to make sure that they are renting to legitimate companies and individuals.

#### COMMUNITY POLICING

*Question.* With the funding you have requested, how do you intend to encourage local law enforcement to engage in community policing and to model best practices for these communities?

*Lead-in information from original document.—*

Over the past several months, we have seen protests over the deaths of unarmed men, many of them African-American. Some of these protests have turned violent. It is apparent that, in some communities, relationships between community members and law enforcement are not strong enough, leading to suspicion and mistrust by both police and residents. When protests do occur, we often see a line of heavily armed officers on one side, and protesters on the other. I believe that the Department of Justice must use its bully pulpit and the Federal grant funding it provides to local jurisdictions to reinvigorate community policing nationwide.

Answer. The Department leverages multiple programs and approaches to strengthen community policing and the vital trust among law enforcement officers and the communities they serve. When these bonds are strong, our crime prevention efforts are more successful; incidents are more likely to be reported and addressed; and police are more likely to have the support they need to do their jobs safely and effectively. The fiscal year 2016 budget includes funding to initiate initiatives specifically cited in the President’s 21st Century Policing Report, like data collection and statistical analysis of crime incidents, and training and technical assistance for law enforcement and public defenders. In addition, resources are provided for the administration’s Community Policing Initiative for programs aimed at promoting restorative and procedural justice, reducing implicit bias, and supporting racial reconciliation and outreach efforts.

#### *Office of Community Oriented Policing Services (COPS)*

The mission of the COPS Office has always been to advance public safety through community policing. With the funding appropriated to the COPS Office in fiscal year 2015, the COPS Office funded several field-initiated projects based on key topics and recommendations outlined in the final report of the President’s Task Force on 21st Century Policing, which will continue throughout fiscal year 2016.

The Task Force on 21st Century Policing was created to strengthen community policing and trust among law enforcement officers and the communities they serve—especially in light of recent events around the country that have underscored the need for and importance of lasting collaborative relationships between local police and the public. It was established by the President on December 18, 2014 and included law enforcement representatives, community leaders, young adults and notable scholars—who examined, among other issues, how to strengthen public trust and foster strong relationships between local law enforcement and the communities that they protect, while also promoting effective crime reduction.

Through the President’s Task Force on 21st Century Policing Field-Initiated Projects, the COPS Office invited applicants to offer innovative ideas to advance a set of the recommendations of their choosing. Projects include demonstration sites, promising practices assessments, guidebook development, and training and technical assistance.

Through the COPS MicroGrant Initiative for Law Enforcement, the COPS Office funded nine law enforcement agencies to develop demonstration sites or pilot projects that may focus on implementing specific recommendations in the report (e.g., enhancing partnership development, improving problem-solving activities, or supporting organizational changes).

The COPS Office will support convenings on topics that advance the implementation of the Task Force's recommendations through its *Community Policing Emerging Issues Forums*. Each convening will result in a publication that provides background information on best practices and the state of knowledge on that topic, as well as considerations, recommendations, and guidance to the field as we build consensus for a path forward.

The COPS Collaborative Reform Initiative for Technical Assistance (CRI-TA) is designed to improve trust between law enforcement agencies and the communities they serve by providing a means for organizational transformation through an analysis of policies, practices, training, tactics and accountability methods around specific issues, all of which are strongly linked to the foundational pillars of and recommendations within the Task Force Report. CRI-TA will be expanded to require procedural justice and implicit bias training for all selected sites and, in fiscal year 2015, an additional five sites were selected to participate in the Collaborative Reform process based on selection criteria consistent with the principles within the Task Force report. The experiences that those agencies go through in transforming their policies, procedures, training, accountability mechanisms and community trust building will serve as a model for the rest of the profession, and will be disseminated through a series of reports that will offer a roadmap for change for agencies interested in replicating those organizational change efforts.

The COPS Hiring Program (CHP) provides funding for the hiring and rehiring of entry-level policing capacity and crime prevention efforts. In fiscal year 2015, the COPS Office gave additional consideration to applicant agencies that selected the category of "Building Trust," and those agencies were encouraged to refer to the Task Force report for suggested actions to incorporate into their proposed community policing strategies. In fiscal year 2015, 83 agencies that selected "Trust Problems" received funding for 365 officers. CHP is the COPS Office's largest grant program, and provides funding directly to State, local and tribal law enforcement agencies to hire and rehire career law enforcement officers in an effort to increase their community policing capacity and crime prevention efforts.

With support from the COPS Office, law enforcement focused organizations will develop national-level, industry-wide projects for several of the pillars outlined in the Task Force report. Supported activities will include the creation of positive and meaningful engagement opportunities between law enforcement and youth, identification of best practices for engaging the community in the mutual responsibility of public safety, exploration of the circumstances and causality behind documented line-of-duty injuries, and promotion of officer safety and wellbeing.

#### *Office of Justice Programs (OJP)*

*Community Policing—Smart Policing Initiative.*—Community engagement is a central principle of the Smart Policing Initiative (SPI), administered by the Office of Justice Program's Bureau of Justice Assistance (BJA). SPI supports law enforcement agencies and represents a strategic approach that brings more science into police operations by leveraging innovative applications of analysis, technology, evidence-based, data-driven practices, and improving performance and effectiveness while containing costs—an important element in today's fiscal environment. BJA currently has several projects underway that are testing innovative approaches to building such partnerships and trust between police and the communities they serve.

*Community Policing—Project Safe Neighborhoods.*—Most of the Project Safe Neighborhoods (PSN) strategies submitted contain some form of community policing as part of their overall gun and gang violence reduction efforts. PSN is designed to create safer neighborhoods through a sustained reduction in crime associated with gang and gun violence. The program's effectiveness is based on the cooperation of local, State, and Federal agencies engaged in a unified approach led by the U.S. Attorney (USA) in each district. The USA is responsible for establishing a collaborative PSN task force of Federal, State, and local law enforcement and other community members to implement gang and gun crime enforcement, intervention, and prevention initiatives within the district. Through the PSN task force, the USA will implement the five design features of PSN—partnerships, strategic planning, training, outreach, and accountability—to address specific gun crime and gang violence, in the most violent neighborhoods. These five elements are essential for PSN to be successful.

One of the strengths of PSN is the flexibility that allows PSN task forces to adapt the key components of PSN to the local context. The difference in levels and the nature of gun crime across the 50 States and across the Nation's cities are enormous and require local adaptation. The most common strategies employed by PSN task forces were increased Federal prosecution; joint Federal-local prosecution case

screening; directed police patrol; community policing; chronic violent offender programs; street level firearms enforcement teams; offender notification meetings; re-entry programs; and firearms supply side interventions.

*Byrne Criminal Justice Innovation Program.*—The Byrne Criminal Justice Innovation Program (BCJI) is designed to help local and tribal communities develop place-based, community-oriented strategies with coordinated Federal support to change neighborhoods of distress into neighborhoods of opportunity. This has consistently been done by sites focusing on public safety as their primary issue, and using innovative criminal justice strategies to address the varying public safety needs of each community. Because BCJI requires cross sector partnerships and is based on the fundamentals of collaboration within a community, community policing is not only encouraged but also built into the concept and execution of this program. The best way to articulate this is through a few examples of sites to date that have been implementing community policing strategies that have had a direct impact on the relationship between law enforcement and the communities they serve.

—*Alameda County, California (Fiscal Year 2014 Planning & Implementation).*—

The Sheriff's Office in Alameda County excels at community-oriented strategies to foster trust in law enforcement and crime prevention. Deputies use theater and other non-traditional approaches to engage residents in discussion about sensitive police-community issues, while the Deputy Sheriff's Activities League (DSAL) provides opportunities for thousands of kids and their families to build community and get to know law enforcement officers in non-threatening settings. More than 1,300 kids and 100 parent volunteers currently participate in the DSAL's Youth Soccer program, for example.

—*Providence, Rhode Island (Fiscal Year 2013 Planning & Implementation).*—

Even as it weathers a significant reduction in force due to budget constraints, the Providence Police Department remains committed to community policing, and has invested heavily in building partnerships with local community development and service organizations which participate in BCJI. In Providence, the community organized the Annual Olneyville Shines Clean-up Day in May 2015, which brought out 120 volunteers including officers. The community also organizes the Olneyville Fall Festival and, for the first time last year, National Night Out, which might become an August tradition.

—The collective efforts have spawned a robust Crime Watch group led by residents in the BCJI target area, and a variety of annual events that bring officers and residents together. Chief Clements also invites community partners to participate in Compstat and command staff meetings to maintain transparency and foster cross-sector problem-solving.

—*Milwaukee, Wisconsin (Fiscal Year 2012 Planning & Implementation).*—

The Milwaukee BCJI effort benefits from explicit programming to foster community-police dialogue and problem-solving, such as the "STOP" (Students Talking It Over with Police) curriculum, which brings police officers together with juveniles in high crime neighborhoods in structured dialogue that yields greater mutual understanding, builds relationships, and seeks to prevent conflict between youth and police on the streets. This program earned the top honor at the International Association of Chiefs of Police conference in fall of 2014.

All the BCJI sites are able to engage one another in peer-to-peer dialogue, which helps to develop their practices and strategies, and enables them to learn from one another in a meaningful way. Each site has developed community policing efforts in a different way, with some innovative approaches to building the relationships between law enforcement and the community. These practices and efforts are shared through our technical assistance provider's Web site and can be used as models for non-BCJI sites throughout the country.

*Procedural Justice—Building Community Trust Program.*—The Procedural Justice—Building Community Trust Program focuses on enhancing procedural justice, reducing bias, and supporting racial reconciliation in the criminal and juvenile justice systems and furthers the Department's mission to ensure public safety and the fair and impartial administration of justice for all Americans. This program, which will be administered by the Office of Juvenile Justice and Delinquency Prevention, will provide grants and technical assistance to State, local, and tribal courts and juvenile and criminal justice agencies to support innovative efforts to improve perceptions of fairness in the juvenile and criminal justice systems and build community trust in these institutions.

#### *Civil Rights Division*

The Civil Rights Division will continue to investigate and, when necessary, prosecute law enforcement officers who engage in excessive force or intentionally violate individual's rights. The Division's civil enforcement work is designed to address sys-

temic problems in police departments by securing agreements with law enforcement agencies that provide for meaningful reform, including community policing requirements. As part of the investigative process, the Division engages with and solicits feedback from the community and works cooperatively with COPS and OJP in facilitating relationship-building between the community and law enforcement. The Division is continually examining its enforcement work to ensure that it is encouraging departments to use the best practices, such as proper use of body-worn cameras and data collection and reporting. To protect individual rights and ensure communities' trust in law enforcement, the Division will continue to commit substantial resources to these important cases.

*Community Relations Service*

Police-community relations surrounding excessive use of force, and the possibility of racial violence, particularly in minority communities, consumes more than half of the Community Relations Services' work. To meet the demand for tailored services regarding the policing of minority communities, CRS requested 10 positions and \$1.2 million for three program increases in the fiscal year 2016 President's budget. The request funds local capacity building to reduce tensions through online resources, allowing CRS to direct its limited resources towards the most vulnerable, highest priority populations (\$240,000 for the CRS Training Academy request); provides conciliation services in support of the President's My Brother's Keeper Initiative and the proposal for the National Initiative for Building Community Trust and Justice (\$775,000 and 10 positions as part of the Collaborative Community Strengthening Initiative); and funds in-depth consultation and guidance to local law enforcement agencies who are party to potentially violent, public safety degrading conflicts with minority communities (\$200,000 for the Law Enforcement Organizational Change Initiative).

LOST AND STOLEN GUNS RIDER

*Question.* Do you share my view that ATF should no longer be prohibited from requiring gun dealers to conduct regular inventories of their firearms?

*Lead-in information from original document.—*

On May 2, 2015, a New York Police Department officer, Brian Moore, was shot and killed by an assailant who used a gun stolen 4 years ago from a pawnshop in Georgia. That pawnshop had guns stolen on at least one other occasion, according to press reports. The tragic shooting of Officer Moore highlights a serious problem in our laws. Since 2004, a policy "rider" included annually in appropriations bills has prohibited ATF from requiring that gun dealers conduct an inventory analysis to determine if any guns are lost, stolen, or missing. As a result of this prohibition, guns can be stolen from stores or given to criminals by unscrupulous dealers without ATF's knowledge.

*Answer.* Some Federal Firearms Licensees (FFLs) do not conduct annual inventory inspections and record reconciliation and, as such, are often unable to account for some of the firearms that, according to their records, are in their custody. Missing firearms for which no record of disposition exists is the most often cited violation during the FFL inspection process. ATF encourages FFLs to conduct annual inventories of their firearms, but cannot require them to do so, and cannot explore possible rulemaking relevant to inventories to enhance timely reporting of lost/stolen firearms. If Congress removed the appropriations restriction, and ATF intended to propose a regulation on this issue, it would do so through the Administrative Procedures Act (APA), which would include opportunity for public comment. ATF believes that public discourse on this issue, through the APA process, is a worthwhile exercise and could help it develop a regulation that would minimize the burden on industry while maximizing its ability to investigate firearms trafficking and streamline the inspection process.

DANIEL CHONG DETENTION BY DEA

*Question.* The DEA's administrator, Michele Leonhart, is stepping down, effective May 15th. As DEA transitions to new leadership, how will you ensure that the agency does not let an incident like this one happen ever again?

*Lead-in information from original document.—*

College student Daniel Chong was held in a detention cell at the DEA's San Diego office without food or water for 5 days with his hands handcuffed behind his back. He nearly died. When he was found, he was suffering from dehydration and kidney failure.

Answer. What happened to Daniel Chong is unacceptable. Following the incident, DEA leadership took immediate steps to implement protocols and procedures regarding the monitoring of holding cells and detainees. Furthermore, DEA instituted the recommendations made by the Office of the Inspector General (OIG) in its investigation report before the OIG report was even finalized. DEA took action within 60 days of the incident to ensure that nothing like this ever happens again.

Additionally, as a result of the OIG review, the head of the Department of Justice's (DOJ) Office of Professional Responsibility is examining DEA's processes and procedures for investigating allegations of misconduct as well as its processes for determining and administering disciplinary action when appropriate. Following completion of this review, DOJ will work with DEA to enhance its policies and procedures to ensure that all allegations are thoroughly investigated and that any substantial findings of misconduct are properly addressed.

*Question.* Will you ensure that DEA responds to congressional inquiries, particularly following such tragedies, in a timely manner?

*Lead-in information from original document.—*

Last summer, I sent Administrator Leonhart two letters, expressing my outrage at Mr. Chong's treatment and requesting answers as to how DEA intended to remedy what an Inspector General's report called "systemic deficiencies" that led to Mr. Chong's detention. I have not received any response to my two letters.

Answer. It is important that the Department respond to congressional inquiries in a timely manner. I understand that DEA responded to your letters on June 9, 2015.

*Question.* Are you confident that DEA has sufficient funding to remedy the deficiencies identified by the Inspector General?

*Lead-in information from original document.—*

Last summer, I sent Administrator Leonhart two letters, expressing my outrage at Mr. Chong's treatment and requesting answers as to how DEA intended to remedy what an Inspector General's report called "systemic deficiencies" that led to Mr. Chong's detention. I have not received any response to my two letters.

Answer. Yes. As previously stated, all of the OIG recommendations were in place before the OIG finalized its report. DEA took action within 60 days of the incident to ensure that nothing like this ever happens again. DEA responded to your letters on June 9, 2015.

#### RESTITUTION FOR TRAFFICKING VICTIMS

*Question.* What training do prosecutors receive on mandatory criminal restitution for trafficking victims?

*Lead-in information from original document.—*

In a letter dated April 20, 2015, Assistant Attorney General Peter Kadzik responded to a letter Senator Portman and I had written to then-Attorney General Eric Holder, urging him to seek restitution for all victims of human trafficking. The Trafficking Victims Protection Act of 2000 (codified at 18 U.S.C. ss 1593) provides that the Federal courts "shall order restitution for any offense" committed under Federal laws that prohibit human trafficking. That law requires the court to order the greater of the calculation of wages owed under the Fair Labor Standards Act or the value of the victim's services to the trafficker. As discussed in the letter Senator Portman and I sent to Attorney General Holder, a recent report by The Human Trafficking Pro Bono Legal Center found that Federal prosecutors did not request restitution in 37 percent of qualifying human trafficking cases that were brought between 2009 and 2012, despite the requirement in Federal law that restitution is mandatory in these cases. Mr. Kadzik stated that, in some instances, there may be "insufficient evidence" to support a claim for restitution, noting that restitution requires "proof that specific harms were caused as a result of an offense" and "evidence establishing the amount of losses incurred or projected to be incurred." "It is clear that many trafficking victims are essentially sold and exploited for profit, and many have significant healthcare needs resulting from their trafficking. One paper produced by the U.S. Department of Health and Human Services stated that a "number of studies have identified the serious and often complex mental health needs of victims of human trafficking." As an example, in one Federal case in which restitution was ordered (*United States v. Shelby*, Memorandum Opinion,

09–213 (D. D.C. June 13, 2011)), the Guardian Ad Litem appointed to represent the four minor victims in that case concluded that each victim suffered from Post-Traumatic Stress Disorder specifically relating to the victim’s experience with the defendant. The statute provides for how losses should be calculated. In addition, to address physical and mental healthcare needs, victims incur costs, either now or in the future, and traffickers must pay for those costs.

Answer. Securing restitution for victims is an essential part of the Department’s victim-centered approach to trafficking investigations and prosecutions. The Department provides in-person training and written guidance for United States Attorneys’ Offices throughout the country on seeking restitution for victims of trafficking. Restitution is a component of almost all Project Safe Childhood trainings at the National Advocacy Center, and restitution training is presented at national conferences such as the Internet Crimes Against Children Task Force national training for law enforcement and prosecutors. In 2014, for the first time, the Human Trafficking Prosecution course for Federal prosecutors at the National Advocacy Center included a specialized, stand-alone segment on restitution.

The Department has also already issued guidance to the field regarding the new restitution provisions in the Justice for Victims of Trafficking Act, and the Department is currently planning additional trainings for prosecutors on the new enforcement and restitution provisions in the law. The Department’s human trafficking prosecutors are also increasingly collaborating with their counterparts in the Asset Forfeiture and Money Laundering Section to more effectively anticipate and address complex issues arising in restitution and forfeiture proceedings.

*Question.* Are prosecutors instructed that they must seek restitution?

*Lead-in information from original document.—*

In a letter dated April 20, 2015, Assistant Attorney General Peter Kadzik responded to a letter Senator Portman and I had written to then-Attorney General Eric Holder, urging him to seek restitution for all victims of human trafficking. The Trafficking Victims Protection Act of 2000 (codified at 18 U.S.C. ss 1593) provides that the Federal courts “shall order restitution for any offense” committed under Federal laws that prohibit human trafficking. That law requires the court to order the greater of the calculation of wages owed under the Fair Labor Standards Act or the value of the victim’s services to the trafficker. As discussed in the letter Senator Portman and I sent to Attorney General Holder, a recent report by The Human Trafficking Pro Bono Legal Center found that Federal prosecutors did not request restitution in 37 percent of qualifying human trafficking cases that were brought between 2009 and 2012, despite the requirement in Federal law that restitution is mandatory in these cases. Mr. Kadzik stated that, in some instances, there may be “insufficient evidence” to support a claim for restitution, noting that restitution requires “proof that specific harms were caused as a result of an offense” and “evidence establishing the amount of losses incurred or projected to be incurred.” “It is clear that many trafficking victims are essentially sold and exploited for profit, and many have significant healthcare needs resulting from their trafficking. One paper produced by the U.S. Department of Health and Human Services stated that a “number of studies have identified the serious and often complex mental health needs of victims of human trafficking.” As an example, in one Federal case in which restitution was ordered (United States v. Shelby, Memorandum Opinion, 09–213 (D. D.C. June 13, 2011)), the Guardian Ad Litem appointed to represent the four minor victims in that case concluded that each victim suffered from Post-Traumatic Stress Disorder specifically relating to the victim’s experience with the defendant. The statute provides for how losses should be calculated. In addition, to address physical and mental healthcare needs, victims incur costs, either now or in the future, and traffickers must pay for those costs.

Answer. Prosecutors are instructed to seek restitution in every case where there is an identifiable victim that suffered a compensable loss, as defined by applicable statutes, as a result of the offense of conviction and where there is available, admissible evidence to support such a request. Securing restitution for victims is an essential part of the Department’s victim-centered approach to trafficking investigations and prosecutions.

As indicated in the April 20, 2015 letter from Assistant Attorney General Peter J. Kadzik, there are a number of factors which may impact whether restitution may be ordered. For instance, if victims indicate that they do not wish to obtain restitution from defendants or participate in sentencing or restitution proceedings, the Department respects their decisions. Further, the Department can only proceed where there is sufficient evidence to support a loss calculation for restitution purposes, in-

cluding evidence establishing actual losses as statutorily defined. If necessary evidence is unavailable, there may be no factual basis to support a restitution order.

*Question.* Has the U.S. Attorneys' Manual been updated to include instructions for seeking restitution under 18 U.S.C. ss 1593?

*Lead-in information from original document.—*

In a letter dated April 20, 2015, Assistant Attorney General Peter Kadzik responded to a letter Senator Portman and I had written to then-Attorney General Eric Holder, urging him to seek restitution for all victims of human trafficking. The Trafficking Victims Protection Act of 2000 (codified at 18 U.S.C. ss 1593) provides that the Federal courts "shall order restitution for any offense" committed under Federal laws that prohibit human trafficking. That law requires the court to order the greater of the calculation of wages owed under the Fair Labor Standards Act or the value of the victim's services to the trafficker. As discussed in the letter Senator Portman and I sent to Attorney General Holder, a recent report by The Human Trafficking Pro Bono Legal Center found that Federal prosecutors did not request restitution in 37 percent of qualifying human trafficking cases that were brought between 2009 and 2012, despite the requirement in Federal law that restitution is mandatory in these cases. Mr. Kadzik stated that, in some instances, there may be "insufficient evidence" to support a claim for restitution, noting that restitution requires "proof that specific harms were caused as a result of an offense" and "evidence establishing the amount of losses incurred or projected to be incurred." It is clear that many trafficking victims are essentially sold and exploited for profit, and many have significant healthcare needs resulting from their trafficking. One paper produced by the U.S. Department of Health and Human Services stated that a "number of studies have identified the serious and often complex mental health needs of victims of human trafficking." As an example, in one Federal case in which restitution was ordered (*United States v. Shelby*, Memorandum Opinion, 09-213 (D. D.C. June 13, 2011)), the Guardian Ad Litem appointed to represent the four minor victims in that case concluded that each victim suffered from Post-Traumatic Stress Disorder specifically relating to the victim's experience with the defendant. The statute provides for how losses should be calculated. In addition, to address physical and mental healthcare needs, victims incur costs, either now or in the future, and traffickers must pay for those costs.

*Answer.* The United States Attorneys' Manual (USAM) directs U.S. Attorneys to seek restitution where appropriate. For example, section 9-16.320 discusses restitution—particularly mandatory restitution—in the context of plea agreements. Section 9-75.500 of the USAM and section 1977 of the Criminal Resource Manual discuss mandatory restitution in the context of sexual exploitation offenses, directing Assistant U.S. Attorneys (AUSAs) that issuance of a restitution order is mandatory. Section 9-27 of the USAM contains the Principles of Federal Prosecution, and directs AUSAs to consider whether restitution has been paid when considering the serious nature of the offense. The USAM does not, and cannot, specifically address restitution for each individual statute in which restitution can be obtained. Nevertheless, the Executive Office for U.S. Attorneys is in the process of drafting guidance addressing § 1593's mandatory restitution provision.

*Question.* If a victim wishes to obtain restitution from a defendant, what specific problems does the Department face in proving the victim's amount of losses?

*Lead-in information from original document.—*

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Answer. In addition to “the full amount of the victim’s losses,” the Trafficking Victims Protection Act (TVPA) restitution provisions require the court to order the greater of the wages under the Fair Labor Standards Act or the value of the victim’s services to the trafficker. This requires proof of prevailing wages and hours worked, or alternatively of proceeds generated by a victim for the trafficker’s benefit. Other restitution provisions allow recompense for out-of-pocket expenses, such as healthcare costs, if there is adequate documentation. In many instances, there are few if any written records, and victims’ recollections can be imprecise due to isolation, trauma responses, the long duration of the offense, and other factors. In addition, a victim may not have been employed (or his or her employment may not have been affected by the offense conduct), and the victim may not have been able to receive medical, therapeutic or rehabilitative services (or may not provide any records reflecting any such services). Other difficulties include victim unavailability and losses attributable to prior trauma.

*Question.* How do Federal prosecutors have difficulty finding “evidence establishing the amount of losses incurred or projected to be incurred” by trafficking victims?

*Lead-in information from original document.—*

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Answer. Victims may not remain involved post-trial, and may become unavailable, which may adversely affect the Government’s ability to estimate the victim’s actual losses with reasonable certainty, and may adversely affect a judge’s consideration of a restitution request that is made. In addition, while restitution is sometimes sought for medical or psychiatric care, defense counsel and courts may question whether the loss can be proven to be causally related to the offense, as opposed to

prior or subsequent traumas that are common in the lives of many trafficking victims.

Under the TVPA, a victim of labor or sex trafficking is entitled to, among recompense for other losses, “the greater of the gross income or value to the defendant of the victim’s services or labor or the value of the victim’s labor as guaranteed under the minimum wage and overtime guarantees of the Fair Labor Standards Act.” However, where the underlying nature of the work is illegal, such as prostitution, victims are unable to benefit from a prevailing wage standard. To remedy this issue, the Department has argued that victims should be compensated based on a theory of unjust enrichment, granting an award in the amount that the defendant(s) profited from exploiting the victim, whether for labor or for illegal commercial sex acts. Under this method, the Department has argued that a victim is entitled to recover the ill-gotten gains the trafficker derived, but not all courts have accepted this legal theory.

*Question.* Would the Department recommend any legislative changes to Section 1593 to improve its usefulness for trafficking victims?

*Lead-in information from original document.—*

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*Answer.* The Department is examining this section to see what legislative changes may help improve 18 U.S.C. § 1593’s efficacy in helping trafficking victims.

*Question.* What steps is the Department taking to ensure that, when restitution is ordered, any assets the defendant forfeited may be used to pay restitution?

*Lead-in information from original document.—*

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Answer. Returning assets to victims of crime is a priority in the Department of Justice’s Asset Forfeiture Program. The Department has returned more than \$4 billion in civilly and criminally forfeited funds to crime victims since 2002, with \$723 million paid to over 150,000 victims in the last 3 years alone. The Department’s human trafficking prosecutors are also increasingly collaborating with their counterparts in the Asset Forfeiture and Money Laundering Section to more effectively anticipate and address complex issues arising in restitution and forfeiture proceedings. The Department also looks forward to employing the new tools provided in the Justice for Victims of Trafficking Act to ensure that forfeited assets of traffickers are/will be used for restitution.

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QUESTIONS SUBMITTED BY SENATOR CHRISTOPHER A. COONS

FBI TESTIMONY

*Question.* What is the DOJ doing to complete its analysis of cases in which the FBI provided hair analysis testimony, including in those cases where local jurisdictions have not been working cooperatively?

Answer. In 2012, the FBI initiated a comprehensive review of microscopic hair comparison analysis or testimony provided in more than 20,000 cases prior to December 31, 1999, when mitochondrial DNA testing became routine at the FBI Lab. The FBI has completed the review of 98 percent of these cases. The review determines whether the FBI Laboratory analysis revealed a positive association between hair evidence and a known sample. To accomplish this process, which includes identifying cases, locating transcripts, and reviewing and evaluating transcripts and reports, the FBI has used the services of 5 FBI employees full-time, more than 18 FBI employees part-time, and 3 contractors full-time. The Department has been working in cooperation with the Innocence Project (IP) and National Association of Criminal Defense Lawyers (NACDL) in this review.

The FBI reached out nationwide to U.S. Attorneys’ Offices, State and local District Attorney Offices and last known defense counsel to obtain transcripts of FBI Hair Examiner trial testimony. The IP and NACDL have also reached out to their contacts to obtain transcripts, which they will provide DOJ and FBI. The FBI anticipates completing its review of all received case transcripts by the end of 2015.

The FBI, IP, and NACDL are developing additional measures to secure transcripts from jurisdictions that have not been responsive to the requests including enlisting the assistance of the State and local prosecutor associations or contracting for the preparation of transcripts of previously un-transcribed testimony.

INACCURATE FORENSIC TESTIMONY

*Question.* What is the DOJ doing to provide meaningful relief to those convicted on the strength of misstated and inaccurate forensic testimony?

Answer. DOJ reviews requests for relief on a case-by-case basis based on an individual review of all case information. In the event that the prosecuting office determines that further testing is appropriate or necessary, or the court orders such testing, the FBI is available to provide mitochondrial DNA testing of the relevant hair evidence or short tandem repeat (STR) testing of related biological evidence if the testing of hair evidence is no longer possible, if (1) the evidence to be tested is in the Government’s possession or control, and (2) the chain of custody for the evidence can be established. In the cases with a positive association, the FBI determines whether the hair examiner involved exceeded the scope of science when the evidence was introduced at trial or to support a plea. In all convictions where a positive FBI hair analysis was used, DOJ will notify the appropriate prosecutor, the defendant,

his/her attorney when possible, the Innocence Project (IP), and the National Association of Criminal Defense Lawyers (NACDL)—whether or not there was a prior error. For example, the FBI reached out nationwide to U.S. Attorneys' Offices, State and local District Attorney Offices and last known defense counsel to obtain transcripts of FBI Hair Examiner trial testimony. The IP and NACDL have also reached out to their contacts to obtain transcripts, which they will provide to DOJ and FBI. The FBI anticipates completing its review of all received case transcripts by the end of 2015.

#### CONCLUSION OF HEARINGS

Senator SHELBY. Now, the subcommittee stands in recess subject to the call of the chair. The subcommittee is adjourned.

Attorney General LYNCH. Thank you, Mr. Chairman.

[Whereupon, at 12:12 p.m., Thursday, May 7, the hearings were concluded, and the subcommittee was recessed, to reconvene subject to the call of the Chair.]