U.S. Department of Justice

Office of Legislative Affairs

Washington, D.C. 20530

April 18, 2007

The Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Please find enclosed additional responses to questions for the record, which were posed to Attorney General Alberto Gonzales following his appearance before the Committee on January 18, 2007. The hearing concerned Department of Justice Oversight. This letter, which completes our responses to the 429 questions the Committee submitted to the Department, supplements our submissions to the Committee, dated April 5, 2007, April 12, 2007, and April 13, 2007.

The Office of Management and Budget has advised us that from the perspective of the Administration's program, they have no objection to submission of this letter.

We hope this information is helpful. Please do not hesitate to contact this office if we may be of further assistance on other matters.

Sincerely,

Richard A. Hertling
Acting Assistant Attorney General

Enclosures

cc: The Honorable Arlen Specter
Ranking Minority Member

<u>Department of Justice Responses to</u>
<u>Questions for the Record posed to</u>
<u>Attorney General Alberto Gonzales</u>
<u>Senate Judiciary Committee</u>
<u>Oversight Hearing January 18, 2007</u>
(Part 4)

<u>QUESTIONS FROM CHAIRMAN LEAHY</u>

Leahy 1 **In its recent report about the situation in Iraq, the bipartisan Iraq Study Group found that the Iraqi Police Service ("IPS") is in dire straits. In particular, the report states on pages 9-10 that the Iraqi Police Service has neither the training, nor the legal authority to conduct criminal investigations, nor the firepower to take on organized crime, insurgents, or militias. To address this problem, the Iraq Study Group advocates having the Justice Department direct the training mission of the IPS forces that remain within the Iraq Ministry of the Interior (ISG Recommendation # 54). Do you agree with this recommendation? What is the Department doing to address this serious problem with the Iraqi Police Service?**

<u>ANSWER:</u> The Iraq Study Group's (ISG) Report makes several recommendations regarding Department of Justice (DOJ) efforts in Iraq. The President's announced New Way Forward addresses many of the essential elements contained within the ISG Report's DOJ-related recommendations and the new Strategy, in its implementation, will achieve the Report's overall objectives of improving police and justice sector capacity.

DOJ has supported Rule-of-Law efforts in Iraq since before the beginning of Operation Iraqi Freedom in March 2003. A significant part of that support includes training Iraqi law enforcement and corrections officers throughout Iraq. In January 2003, DOJ assigned two federal employees to the Office of Reconstruction and Humanitarian Assistance, which was subsequently replaced by the Coalition Provisional Authority (CPA), to provide planning support for reconstruction of the justice, law enforcement, and corrections systems in Iraq. The two DOJ detailees deployed to Baghdad in April 2003 with 23 contracted senior police and corrections and judicial advisors to help coordinate a comprehensive assessment of the justice and law enforcement sectors and initiated some modest programs in support of reconstruction in each sector. With the transition of the CPA to a full Embassy organization in Baghdad in mid-2004, the Department of State (DOS) requested assignment of a Justice Attaché to the new Embassy to coordinate all DOJ component activities at the new Mission. A Justice Attaché has served on the Embassy staff since July 2004. Currently, DOJ has approximately 60 employees and 300 contractors supporting efforts in Iraq through, as described below, training, outreach, and efforts to enhance the Rule of Law mission. [1]

[1] These numbers fluctuate at any given time. DOJ components (e.g., FBI, DEA, USMS, ATF) sometimes station personnel to Iraq on a temporary duty basis.

DOJ’s International Criminal Investigative Training Assistance Program (ICITAP) currently has four federal employees and approximately 300 contracted trainers/advisors working with and training Iraqi police and security services, corrections officers, and public integrity investigators. DOJ’s Office of Overseas Prosecutorial Development, Assistance and Training (OPDAT) has seven Assistant U.S. Attorneys assigned as Resident Legal Advisors (RLA) and one administrative assistant in Iraq, as well.

With respect to police and other law enforcement training, ICITAP has deployed Senior Law Enforcement Advisers to oversee teams of contracted trainers for both the Iraqi Police Service and the Iraqi Correctional System – approximately 204 trainers for the Iraqi Police Service, and approximately 80 for the Iraqi Corrections Service. These ICITAP Police trainers -- and other law enforcement trainers -- work under the direction of the Civilian Police Assistance Training Team (CPATT), a subordinate element of the Multinational Force – Iraq, which has responsibility for training all civilian security forces, police, border protection, and site security personnel. ICITAP has received $282.5M in Iraq Relief and Reconstruction Fund (IRRF) funding from the Department of State/ Bureau of International Narcotics and Law Enforcement Affairs (INL). Of that amount, $210.2M has been allocated for Police Advisors, $62.6M for Corrections Advisors, and $9.7M for the Commission on Public Integrity Advisors. Additionally, the Drug Enforcement Administration (DEA) has delivered courses in intelligence and intelligence analysis to the Iraqi police agencies in support of CPATT, and the Federal Bureau of Investigation and Bureau of Alcohol, Tobacco, Firearms and Explosives has deployed rotating teams of personnel to provide specialized counterterrorism, explosives, and complex criminal case training to the Iraqi police.

ICITAP’s police trainers are distributed at police academies throughout Iraq, at the Iraq Commission on Public Integrity, and at the Jordan International Police Training Center outside Amman, Jordan. ICITAP corrections trainers are managing, training, and mentoring Iraqi Corrections Service personnel in 28 prisons and jail facilities throughout Iraq.

The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has participated since October 2003 in the planning and implementation of counterterrorism/explosives training for the Iraqi Police in support of CPATT. ATF has completed numerous two-week, post-blast investigation courses at Camp Dublin and one-week basic explosives courses at Adnan Palace for over 300 Iraqi Police Service officers. ATF also has conducted several highly-specialized, pre-deployment Military Post-Blast Investigation Training schools for U.S. military personnel before they arrive in the Iraqi theater, and pre-deployment explosives training for U.S. State Department Diplomatic Security Service personnel headed to Iraq.

In 2005, DOJ established the Major Crimes Task Force (MCTF), which assists in the training of the Iraqi police agencies with the investigation of major crimes. Using a train-the-trainer approach, attorneys and federal law enforcement personnel from DOJ component agencies train Iraqi police officers to conduct major investigations.. Resources and funding for the MCTF originated with a directed reallocation of IRRF funding that was transferred to DOJ through the Department of State.

DOJ will continue to support the professionalization of the Iraqi Police Service. As noted above, DOJ representatives have worked closely with Embassy and MNF-I personnel, and Iraq officials in the police training programs. Going forward, DOJ will continue to closely coordinate, both at the national and provincial levels, the justice sector and police capacity-building effort to ensure that the specialized training of police in such areas as forensics and complex investigations is matched by developing the prosecutorial capacity in the courts to bring complex cases to fruition. This cooperation will involve all DOJ components with the required skills to provide the Iraqi corrections officials and police with the capacity to conduct the complex investigations and prosecutions that are critical to a modern and functional justice system.

Leahy 4 **Public corruption is also a significant problem in Iraq and the Iraq Study Group recommends that the Justice Department's programs designed to create institutions and practices to fight public corruption in Iraq "must be strongly supported and funded." What resources does the Department currently have dedicated to helping to fight public corruption in Iraq? Will the Department increase these resources to further assist the Iraqi government in fighting public corruption?**

ANSWER: The Department is working diligently to combat public corruption in Iraq. Currently, DOJ's International Criminal Investigative Training and Assistance Program ("ICITAP") has sixteen experienced police trainers who have strong backgrounds in criminal investigations assigned in support of the Commission on Public Integrity (CPI) for the purpose of training investigators in anti-corruption activities and to assist the CPI in building a substantive investigations capability for its anti-corruption activities. Additionally, ICITAP has skilled investigations trainers assigned to the Internal Affairs units of both the Minister of Interior (for Iraqi Police Services) as well as the Ministry of Justice (for Iraqi Corrections Service) functions. Both these internal affairs units have had some success in identifying and successfully prosecuting key ministerial personnel in criminal cases dealing with public corruption activities.

The Department has also taken steps to address fraud and corruption associated with the Iraqi reconstruction effort. DOJ has established a unified and coordinated approach for prosecuting these types of cases and has recently formed the *National Procurement Fraud Task Force* (Task Force) to combat procurement fraud government-wide. The Task Force brings together prosecutors, Inspectors General, and law enforcement investigators, such as the FBI, to focus on prosecuting fraud cases. We have marshaled the resources of the Public Integrity Section, the Fraud Section, and the Asset

Forfeiture and Money Laundering Section of the Criminal Division; the resources of the Civil Division; and those of the U.S. Attorneys' offices around the country. As part of these efforts, DOJ continues to work closely with the Special Inspector General for Iraq Reconstruction (SIGIR) on cases relating to Iraq.

All told there are more than 70 federal attorneys who are involved on either a part-time or a full-time basis in investigating or prosecuting fraud and corruption cases associated with our efforts in Iraq, Afghanistan, and the Global War on Terror. To date, these attorneys have handled approximately 100 investigations or cases. Additionally, the Federal Bureau of Investigation has assigned approximately 40 special agents and 10 intelligence analysts to investigate these and other related matters.

Of the 100 investigations or cases, the Department has charged 25 individuals criminally for fraud associated with public corruption and government fraud associated with the global war on terror, which includes matters involving Iraq, Kuwait, and Afghanistan. Sixteen of these individuals have been convicted (seven are awaiting sentencing). The other nine individuals have charges pending either though indictments or criminal complaints. Two civil cases have been settled involving contracting in connection with the Iraq war.

Furthermore, in conjunction with the FBI, the Internal Revenue Service, the Army's Criminal Investigation Division, the Defense Criminal Investigative Service (DCIS), the Fraud Section of the Criminal Division, and the U.S. Attorney's Office in the Central District of Illinois has filed criminal charges against seven individuals for bribery and kickbacks associated with Iraq reconstruction efforts.

The Department will continue to investigate and prosecute corruption and procurement cases as they develop. In conjunction with managing its present and future caseload, the Department continues to review the staffing levels needed to assist the Iraqi government in fighting public corruption, as well as fraud and abuse.

Leahy 18 **Last Congress, Senator Cornyn and I introduced the Open Government Act (S.394), which would improve the way FOIA is operating. The public's right to know is critical to our democracy working effectively. I will be reintroducing this legislation with my colleague, Senator Cornyn, and would like to see it enacted this Congress. Will you support this legislation?**

ANSWER: FOIA is a vital and continuously developing government disclosure mechanism that has been refined over time to accommodate both technological advancements and society's maturing interests in a transparent and fully responsible government. The Department remains committed to fully complying with FOIA as a means of maintaining an open and accountable system of government, while also recognizing the importance of safeguarding national security, enhancing law enforcement effectiveness, respecting business, ensuring confidentiality, and preserving personal privacy.

In order to improve the effectiveness of agencies' FOIA operations, the President issued Executive Order 13392 (Dec. 14, 2005), the first Executive Order to address FOIA. The EO requires that each agency submit concrete plans to improve its efficiency and its responsiveness to FOIA requesters. To that end, the EO requires that each agency head designate a senior official of that agency to serve as the Chief FOIA Officer for the agency, with responsibility for monitoring FOIA compliance and promoting public understanding. Each agency was also required to submit a plan to include specific activities that the agency will implement to eliminate or reduce the agency's FOIA backlog, and increase dissemination of records to the public by means that do not require the public to request the records under FOIA. Agencies have already conducted comprehensive reviews of their FOIA operations, prepared their FOIA Improvement Plans, and are well underway in implementing their stated goals. The Office of Information and Privacy at the Department of Justice is currently reviewing the agencies FY 2006 annual reports on FOIA and the implementation of the EO. The Department is pleased that several agencies have shown significant success in their FOIA operations.

We understand that you recently introduced S. 849 ("OPEN Government Act of 2007"), which is substantially similar to S. 394. The Department believes that the EO directly addresses many of the problems with FOIA that Congress seeks to remedy through the enactment of S. 849. Therefore, the Department believes that the agencies should be given sufficient time to implement the EO before legislation is considered. Furthermore, the Department opposes several sections of this legislation as currently drafted, including section 6, which prevents the government from invoking a number of FOIA exemptions, including law enforcement information and deliberative material, if it does not meet the 20-day deadline for responding to requests; section 3, which expands the definition of "news media" for purposes of assessing FOIA fees; and section 4, which reinstates the so-called "catalyst theory" for reimbursement of attorneys fees in FOIA litigation. More generally, the Department is very concerned about the substantial financial burdens that this legislation would impose upon the Executive Branch, without authorizing the resources necessary to implement its statutory scheme.

Finally, as you are aware, the Department submitted a views letter to the Committee on March 26, 2007, which outlines our concerns regarding S. 849. We have attached that letter for your reference.

Leahy 48 **If so, what is the legal basis, and how do you differentiate the instances in which visitor logs have been publicly reviewed in the past and have played prominent roles in the investigations of prior administrations?**

ANSWER: Documents generated by the White House Access Control System ("WHACS") are subject to the Presidential Records Act, rather than the Freedom of Information Act ("FOIA"). WHACS records, including the visitor logs, are presidential records because they are "documentary materials . . . created or received by the President, his immediate staff, or a unit or individual of the Executive Office of the

President whose function is to advise and assist the President, in the course of conducting activities which relate to or have an effect upon the carrying out of constitutional, statutory, or other official or ceremonial duties of the President." 44 U.S.C. § 2201(2). The White House has expressly reserved control over WHACS recrods, and the Secret Service has determined that WHACS records are not appropriate for preservation. Therefore, such documents are not "agency records" of the Secret Service for purposes of the FOIA or the Federal Records Act. The Secret Service and the White House have continued to assert that these are presidential records rather than agency records subject to FOIA.

Leahy 49 **Have federal investigators and Department of Justice attorneys investigating and prosecuting the Abramoff case been given full access to White House visitor logs? If not, please explain why access to these records has been denied.**

ANSWER: Because the Abramoff investigation is ongoing, it would not be appropriate for us to discuss the details of specific investigative steps that have or have not been taken. We can assure you, however, that the investigators and prosecutors handling the Abramoff investigation have not been denied access to White House visitor logs.

Leahy 81 **Will all electronic surveillance of terrorism suspects now be reviewed by the FISC or another federal court, or do you still maintain that the FISC's approval of this surveillance is merely voluntary?**

ANSWER: As we have repeatedly noted and explained at length, the TSP was fully consistent with all applicable law, including FISA. However, as noted in our letter of January 17, any electronic surveillance that was occurring as part of the TSP will now be subject to the approval of the FISC.

QUESTIONS FROM SENATOR SPECTER

Specter 107 **Does DOJ have the expertise and the resources necessary to counter this trend? If so, how are these resources being dispatched to help the U.S. Attorney's Office and other law enforcement agencies?**

ANSWER: There are many factors that contribute to the rise of violent crime, , including familial and cultural factors, are Department of Justice.

Federal prosecutors continue to focus resources on the most serious violent offenders, taking them off the streets and putting them behind bars where they cannot re-offend. The Administration created Project Safe Neighborhood (PSN), a cooperative effort between federal, state, and local law enforcement agencies and prosecutors to reduce gun crime. Since its inception in 2001, the Administration has committed more than $1.6 billion to hire more than 200 federal prosecutors to prosecute gun crime, make grants available to hire more than 500 new state and local gun crime prosecutors, and train more than 19,000 law enforcement officers across the nation to develop effective prevention and deterrence efforts to reduce gun violence in our communities.

In FY 2006, the Department prosecuted 10,425 federal firearms cases against 12,479 defendants, over a 65% increase in case filings since the inception of PSN. In 2006, the conviction rate for firearms defendants was 92% – the highest it has ever been. The percentage of those defendants sentenced to prison – nearly 94% – is also a record high. Over 50% of the defendants sentenced to prison received sentences of more than five years and nearly 75% received sentences of more than three years.

In FY 2006, state and local partners received $40 million in PSN grants. For FY 2007, the President requested $58.4 million in PSN state and local grant funding to prosecute criminal misuse of firearms and illegal gang activity.

Specter 111 **What current Department of Justice grant programs are designed to address youth violence? What grantees have received grants in the last fiscal year to address youth violence? Which, if any, of these programs set to expire this fiscal year?**

ANSWER: The Department, through the Office of Justice Programs, funds a number of grant programs designed to address youth violence. Project Safe Neighborhoods (PSN) is a nationwide commitment to reduce gun crime in America. The effectiveness of PSN is based on the ability of local, state, and federal agencies to cooperate in a unified offensive led by the U.S. Attorney (USA) in each of the 94 federal judicial districts across the United States. The goal is to create safer neighborhoods by reducing gun violence and sustaining that reduction. In FY 2006, the Department provided approximately $30 million in state and local grants and training and technical assistance to support PSN's new and enhanced anti-gang work. (Please see attached list of awards.)

The Weed and Seed Program is a community-based, multi-agency approach to law enforcement, crime prevention, and neighborhood restoration. "Weeding" consists of law enforcement and community policing; and "seeding" consists of efforts designed to prevent, intervene, and treat crime, and social and economic distress. There are over 300 Weed and Seed sites, and in FY 2006, 184 communities received Weed and Seed funding. (Please see attached list.)

In 2006, the Department launched a Six Site Comprehensive Anti-Gang Initiative which provides a total of $15 million to six jurisdictions experiencing significant gang problems: Los Angeles, CA; Tampa, FL; the Eastern District of Pennsylvania's 222 Corridor; Cleveland, OH; Dallas/Ft. Worth, TX; and Milwaukee, WI. Through this anti-gang initiative, each of the six jurisdictions will incorporate prevention, enforcement, and reentry efforts to reduce and prevent gang membership and violence in their communities.

The Office of Juvenile Justice and Delinquency Prevention's (OJJDP) Gang Reduction Program (GRP) was launched in 2003 as a demonstration program to implement and test multidisciplinary, community-based approaches for responding to gangs. The four pilot sites are located in East Los Angeles, CA; Milwaukee, WI; North Miami Beach, FL; and Richmond, VA. The National Youth Gang Center provides training and technical assistance and the Urban Institute is conducting an outcome evaluation.

All sites are engaged in implementing and coordinating multiple anti-gang strategies. In 2006, the Urban Institute delivered interim evaluation results focusing on implementation process. The interim evaluation identified positive accomplishments in terms of coordination and improved response to gang issues at each site. Findings also suggested areas in need of improvement and OJJDP worked with all sites, the National Youth Gang Center, and the Urban Institute to fine tune implementation activities. Funding to extend the evaluation and training and technical assistance components was provided in 2006. The final evaluation report with outcome findings will be delivered in the fall 2007.

OJJDP's Targeted Community Action Planning (TCAP) initiative is a technical assistance initiative to assist states and communities interested in developing targeted responses to their most pressing juvenile justice and delinquency prevention needs. TCAP helps communities assess their juvenile justice and delinquency prevention needs and assists them in developing a targeted community response to the most critical issues identified by community leaders. Grants are not awarded under the TCAP initiative. OJJDP has provided 26 communities with training and technical assistance through this initiative.

A list of Fiscal Year 2006 grants awarded under these programs is provided as an attachment. None of the programs listed are set to expire in fiscal year 2007, however, the project period of many grants awarded under these programs in FY 2006 or before, will expire at the end of FY 2007. Please see also the attached documents, which provide additional information responsive to your Question.

Specter 140 **Do you still believe there is a need to modify the "traditional FISA process" to keep our nation secure?**

ANSWER: Yes. FISA should be updated to account for the sweeping changes in telecommunications technology since 1978. These changes have resulted in FISA requiring the Government to obtain court orders to intercept the communications of foreign persons overseas—a result that hampers our intelligence capabilities in a manner that we believe was not intended by FISA's drafters amd that does not protect the privacy of Americans. As General Hayden explained to this Committee last year, our limited resources are best focused on protecting the privacy interests of U.S. persons. To restore FISA to its original focus, FISA should be amended to provide a new, technology-neutral definition of "electronic surveillance." The FISA application process also should be streamlined by eliminating requirements to submit to the FISA court information that serves little or no purpose in safeguarding civil liberties. The Department of Justice looks forward to working with Congress, and with this Committee, on this important issue.

Specter 156 **Mr. Attorney General, Recommendation 61 of the Iraq Study Group Report calls for DOJ to establish courts, train judges, prosecutors, investigators, and to create institutions and practices to fight corruption. On January 16, 2007, Acting Assistant Attorney General Richard Hertling responded to a letter written by Senator Patrick Leahy on December 11, 2006, regarding DOJ's efforts in Iraq. The letter outlined the many initiates that DOJ is currently involved with in Iraq. Is there a transitional plan that would allow the Iraqis to fully take command of providing security for courts, judges, and prosecutors?**

ANSWER: In addition to the initiatives outlined in our detailed letter to Chairman Leahy, dated January 16, 2007, the Department of Justice, through the United States Marshals Service (USMS), has undertaken numerous significant projects that collectively aim to provide Iraqis with the skills, experience, and insight to assume responsibility for their own judicial security. Specifically, with funding assistance from the Department of State, the USMS:

- Continues to support and provide security-related advice in the design and construction of five new state-of-the-art courthouses (Karkh, Rusafa, Hillah, Basrah and Mosul);

- Has provided training to over 3,000 Facilities Protection Service police and Personal Security Details for judicial staff;

- o Has provided secure residential housing for approximately 25-30 judges and their families at a protected apartment facility in the International Zone; and

- o Has completed construction on security features at the Central Criminal Court of Iraq-Baghdad (CCCI), including screening mechanisms at entry-exit sites; is in the process of constructing secure, non-public hallways for criminal detainees and creating judicial investigative hearing rooms. Additionally, the USMS is training CCCI guards to monitor hallways and use security devices effectively.

Specter 157 **Is there a need for additional DOJ personnel to carry out the recommendations of ISG?**

ANSWER: As described at some length in our letter to Chairman Leahy from Acting Assistant Attorney General Hertling, dated January 16, 2007, the Department has engaged in extensive efforts to help Iraqis build and maintain the law enforcement capacity necessary to promote the Rule of Law. Working with other Executive Agencies, the Department will continue this vital work in support of the Iraqi Government.

The President's New Way Forward contains two elements that directly affect DOJ and its enhanced level of support to the Iraqi Government. First, the number of Provincial Reconstruction Teams (PRTs) will double. With funding from the Department of State, DOJ currently supports the PRTs through the deployment of Resident Legal Advisors (RLAs) to help develop capacity within the Iraqi justice sector to prosecute criminal threats -- whether by insurgents or common criminals -- that threaten Iraq's stability. We have deployed six RLAs to Baghdad and other cities in Iraq as part of the existing PRTs. As plans for additional PRTs are developed and finalized, we will work with the Embassy and the interagency community to enhance our presence in the PRTs to continue and expand this critical mission, should the interagency determine that the new PRTs require DOJ personnel .

Similarly, we will continue to support the professionalization of the Iraqi Police Service, as required by CPATT. DOJ representatives have worked closely with both Embassy and Multi-National Force-Iraq officials in the police training programs. Going forward, we will continue to support efforts to coordinate, both at the national and provincial levels, the justice sector and police capacity-building effort to ensure that the specialized training of police in such areas as forensics and complex investigations is matched by developing the prosecutorial capacity in the courts to bring complex cases to fruition. This cooperation will involve all DOJ components with the required skills to provide the Iraqi Police with the utmost capacity to conduct the complex investigations that will be required in a modem, function justice system.

QUESTIONS FROM SENATOR KENNEDY

Kennedy 174 **How has the Department made hate crimes investigations and prosecution a priority, and if it hasn't, does it intend to?**

ANSWER: Please see response to question 177, which was transmitted to the Committee on April 13, 2007.

Kennedy 176 **If you believe that the annual hate crime reports accurately represent the incidents of hate crime, can you describe why the Department and other agencies have not been able to reduce the national crime rate to reflect the reported decline in hate crimes?**

ANSWER: As discussed in response to Question 175, which was transmitted to the Committee on April 13, 2007, the UCR Program's hate crime reporting relies on voluntary data submissions by law enforcement. The data published are the end product of various quality control processes and checks, and they are documented to indicate the calendar quarters the submissions represent. The FBI acknowledges that the hate crime data reported do not reflect 100 percent participation by the nation's law enforcement agencies. They are, however, the most complete body of statistical data submitted by law enforcement anywhere nationwide.

To date, the FBI has not calculated hate crime trends in its annual report, Hate Crime Statistics, as it has for crime data in the report on Crime in the United States. With regard to the referenced "decline in hate crimes," the perceived decline should not be measured against the national crime rate. The increase or decrease in the number of hate crimes is a social phenomenon that is most often driven by factors other than those involved in traditional violent and property crimes. The motivation for a hate crime is bias, a factor not typically relevant to the general crime rate.

Kennedy 182 **Can you give any specific examples of how data mining programs have successfully identified previously unknown terrorists?**

ANSWER: The term "data mining" has been used in various ways and it is unclear how the term in being used in this question. The mission of the FBI's Terrorist Screening Center (TSC) is to consolidate the government's approach to terrorist screening by creating a single, comprehensive database of known or appropriately suspected terrorists and to make this consolidated list available to Federal, state, and local screeners through the TSC's 24/7 call center. As detailed below, recent TSC successes include: (1) a traffic stop resulting in the arrest of a suspect connected to Hamas, which is denoted as a Specially Designated Terrorist Organization by the Department of State (DOS); and (2) a customs in-flight check with the FBI prompting an arrest at the Chicago Airport.

In 2002, Maryland authorities stopped a person who was filming the Chesapeake Bay Bridge. A routine check by the police officers provided information that the person who was filming might be of interest to the FBI. A police officer called the TSC from his location, and TSC personnel advised the officer that the individual was, in fact, an unindicted co-conspirator with three others who were members of Hamas. Within minutes, the individual was arrested on an outstanding material witness warrant.

In another recent incident, the Immigration and Customs Enforcement Customs and Border Protection National Tracking Targeting Center notified the TSC of a possible match with the name of a passenger who was, at the time, on a flight from Amman, Jordan, to Chicago, Illinois. TSC personnel in Washington, D.C., checked databases and verified a positive match, then contacted the FBI's Chicago JTTF to advise that the subject on the plane should be arrested immediately upon landing. When his flight landed, the subject was arrested and taken into custody at the Chicago airport.

Kennedy 190 **Please provide the employment application or current resume of each individual appointed as an interim United States Attorney during the past two years.**

ANSWER: Please see the attached resumes.

Kennedy 241 **What will you do to improve the Justice Department's record in prosecuting criminals in Brady Act cases?**

ANSWER: Within available resources, the Department of Justice will continue to prioritize cases against serious, violent firearms offenders. As stated above, the Department of Justice's efforts have led to a tremendous increase in gun crime prosecutions, and have taken violent offenders off the streets.

Per a directive from Attorney General Ashcroft, all United States Attorneys have established referral guidelines with their ATF Special Agent in Charge to ensure that significant violent offenders are referred for federal prosecution. Further, each US Attorney coordinates with local prosecutors to ensure that a case developed by ATF that does not meet the criteria for federal prosecution is appropriately referred to state prosecutors.

Kennedy 242 **In light of the success of the Assault Weapons Ban and President Bush's announced support for its renewal, what steps will the Department be taking to urge Congress to renew the Assault Weapons Ban? Does the Department believe that renewing the Assault Weapons Ban is important to fighting gun crimes, saving lives, and improving public safety?**

ANSWER: The President has made it clear that he stands ready to sign a reauthorization of the federal assault weapons ban if it is sent to him by Congress. We, of course, support the President on this issue.

QUESTIONS FROM SENATOR BIDEN

Biden 259 **The President's FY 2007 Budget request for the Drug Enforcement Agency (DEA) would have permitted DEA to fund only 95% of the authorized number of DEA agents, and only 80% of DEA's non-agent workforce. Even a full appropriation at the President's requested level would have been insufficient fully to fund the authorized amount of DEA personnel. DEA was forced to institute what could be a two-year or longer hiring freeze as a result. Given the nexus between drug-trafficking and terrorist organizations, please detail why the Administration chose to under-fund these essential positions and what specific steps you have taken or will take to ensure that the President's request for upcoming years is adequate to ensure that all authorized agent and non-agent positions are fully funded?**

ANSWER: Between FY 2003 and FY 2007, DEA's budget has been strained by $213 million in new demands and revenue reductions as a result of unfunded pay increases, congressionally mandated rescissions, program reductions, and new Administration mandates for which funding was not provided. Some of these cuts were one-time reductions, but nearly $110 million has been cut permanently from DEA's budget. Likewise, unfunded pay increases and mandates significantly contribute to the shortfall as these increasing costs have not been met with necessary funding. Collectively, these reductions have led to the under-funding of DEA's authorized positions.

In FY 2007, DEA is taking a number of internal steps to manage the funding shortfall and to maximize available resources. DEA implemented a hiring freeze at the end of FY 2006 in anticipation of offsets contained in the FY 2007 President's Budget. DEA plans for the agent hiring freeze to extend through FY 2008. However, with additional funding, it is anticipated that the non-agent hiring freeze could be lifted at the end of FY 2007. In addition to the hiring freeze, DEA has implemented a zero-based budgeting process to internally realign budgetary resources. Related to this process, DEA has reduced operational and intelligence funding by 6 percent and 13 percent, respectively, in order to pay all mandatory bills such as payroll, rent, and overseas facility charges.

Despite these requirements, DEA continues to support critical programs such as priority targeted drug investigations, the drug flow prevention strategy, and financial investigations. Focusing drug law enforcement efforts in these areas will maximize DEA's use of resources and result in well-coordinated investigations that lead to fewer drug trafficking organizations and more effective prosecutions. Finally, DEA will use the "force multiplier" effect of its technological investments and state and local task force officers to further capitalize on available resources.

In addition to making internal adjustments, DEA will also leverage available external resources and cooperative partnerships. For example, DOD assistance is crucial to DEA's international operations because DEA alone does not possess the aviation resources needed to fully combat the international drug threat. DEA will continue to work with DOD and other agencies to carry out multi-agency, multi-jurisdictional intelligence and enforcement efforts that result in enhanced operational impacts.

Biden 260 **Does the President's low budget request – and the resulting hiring freeze – undercut efforts to interdict and disrupt narcotics cultivation and supply, and to stem the tide of our raging drug problem at home? Why or why not?**

ANSWER: In FY 2007, DEA is taking a number of internal steps to effectively manage and maintain its highest priority programs and activities and to maximize available resources. DEA implemented a hiring freeze at the end of FY 2006 to minimize the impact of offsets offered in the FY 2007 President's Budget. DEA plans for the agent hiring freeze to extend through FY 2008. However, with additional funding it is anticipated that the non-agent hiring freeze could be lifted at the end of FY 2007. In addition to the hiring freeze, DEA has implemented a zero-based budgeting process to internally realign budgetary resources to address high priority programs, operations and initiatives. Related to this process, DEA has reduced certain operational expenses in order to fund payroll, rent, and overseas facility charges. Despite these requirements, DEA continues to support critical programs such as priority targeted drug investigations, DEA's drug flow prevention strategy, and financial investigations. Focusing drug enforcement efforts in these areas will maximize DEA's use of resources and result in well coordinated investigations that lead to fewer drug trafficking organizations and more effective prosecutions. Finally, DEA will use the "force multiplier" effect of its technological investments, its agent force and state and local taskforce officers to further capitalize on available resources.

While DEA is primarily an investigative agency, not an interdiction agency, the resulting investigations have an effect on the supply and demand of illegal drugs and, more importantly, on the individuals and organizations responsible for trafficking in drugs. DEA's primary mission is enforcing the laws of the Controlled Substances Act (CSA) and it carries out that mission by conducting investigations of the most significant drug trafficking organizations (DTOs). DEA uses the Priority Targeted Organization (PTO) model to select investigations within its domestic field divisions and foreign regional offices to effectively disrupt and dismantle targeted DTOs. By combining the PTO program with the Consolidated Priority Organizational Target (CPOT) organizations as designated by DOJ's Organized Crime Drug Enforcement Task Force (OCDETF) program, which targets the most significant DTO leadership worldwide, DEA will be able to maintain its PTO and CPOT investigations.

As noted in the response to Question 259, above, in addition to making internal adjustments, DEA will also continue to leverage available external resources and cooperative partnerships. For example, DoD assistance is crucial to DEA's international operations to fully combat the international drug threat. DEA will continue to work with DoD and other agencies to carry out multi-agency, multi-jurisdictional intelligence and enforcement efforts that result in enhanced operational impacts.

Biden 262 **Isn't it readily apparent that because these personnel cannot be replaced under a hiring freeze, the Administration's under-funding is sowing the seeds for increased drug production, trafficking, and use?**

ANSWER: Please see the response to Question 260, above.

Biden 263 **Does the Department have a plan to address the aforementioned problems associated with the current hiring freeze? If so, please explain in detail the Department's plan.**

ANSWER: Please see the response to Question 260, above.

Biden 275 **What has this administration done to fight the practice of racial profiling?**

ANSWER: In June 2003, the Civil Rights Division issued "Guidance Regarding the Use of Race by Federal Law Enforcement Agencies." The Guidance was adopted by the President as executive policy immediately governing all federal law enforcement activities. The Guidance was developed for Federal officials to eliminate racial profiling in law enforcement and emphasizes that "[r]acial profiling in law enforcement is not merely wrong, but also ineffective. Race-based assumptions in law enforcement perpetuate negative racial stereotypes that are harmful to our rich and diverse democracy, and materially impair our efforts to maintain a fair and just society." The Guidance "in many cases imposes more restrictions on the consideration of race and ethnicity in Federal law enforcement than the Constitution requires."

Upon issuance of the Guidance, then-Assistant Attorney General for the Civil Rights Division Ralph Boyd sent a copy of the Guidance along with a letter to the heads of all Executive Branch agencies and the heads of all federal law enforcement agencies. The letter advises each federal law enforcement agency to review all of its policies and procedures to ensure conformity with the Guidance and to review and, if necessary, revise its training programs. The Assistant Attorney General further offered the assistance of the Civil Rights Division in reviewing any revisions or changes to agency policies, procedures, or training programs.

In April 2004, then-Assistant Attorney General for the Civil Rights Division Alex Acosta sent a follow-up memorandum to federal law enforcement agencies reminding them that the Guidance had been adopted by the President as executive policy and governs all federal law enforcement activities. The memorandum also announced that the Civil Rights Division would be hosting a conference in June 2004 to learn how the Guidance was being implemented. The following month, the Civil Rights Division met with representatives of major law enforcement agencies within the Department of Justice and Department of Homeland Security (DHS) to discuss the specific steps that the agencies had taken to implement the Guidance.

In June 2004, Assistant Attorney General Acosta convened a conference with the general counsels (or their representatives) of federal executive branch law enforcement agencies to review their implementation of the Guidance. In addition to hearing reports from each agency about their implementation of the Guidance, the conference also provided a forum in which agencies were able to discuss promising policies and practices with each other. Several agencies also shared the specific steps they took to revise their training programs and materials to ensure conformity with the Guidance.

The Civil Rights Division also has provided technical assistance to various federal law enforcement agencies. For example, the Division worked with the Drug Enforcement Administration (DEA) to develop a training video to educate DEA personnel on the requirements of the Guidance. This training video is presented to all entry-level Special Agents, Intelligence Analysts, Diversion Investigators, and Chemists. Additionally, this video is mandatory training for DEA field and Headquarters employees. DEA also has issued internal policies prohibiting racial profiling and other forms of discrimination. In 2000, then Acting Administrator Donnie Marshal issued a memorandum to all DEA employees stating that "DEA has not and will not investigate or collect intelligence against any one or any group based on their racial or ethnic makeup" and that race and ethnicity "are never a basis for law enforcement to suspect an individual of wrongdoing." To further emphasize DEA's commitment to fairness in its investigative and enforcement activities, § 6641.11(F) of the DEA Agents Manual states: "Agents, TFOs (Task Force Officers), or any state/local officer participating in a DEA sponsored Task Force will not detain any person based solely on the sex, race, color, or national origin of that person. An individual's sex, race, color, or national origin shall not, by itself, be considered to be indicative of criminal activity."

The Division also has coordinated with the Federal Bureau of Investigation (FBI) about its training of FBI agents on racial profiling issues. For example, from January through April, 2006, the FBI conducted cultural diversity training for executive managers and supervisors. That training included a video vignette on racial profiling and discussion of its prohibited use in traditional law enforcement activities. In addition, the Division reviewed a training tutorial entitled "Guidance Regarding the Use of Race for Law Enforcement Officers" developed by DHS to help explain the DOJ Guidance and DHS policy to its law enforcement officers.

In addition to these activities, the Civil Rights Division has incorporated the Guidance into its regular training courses at the National Advocacy Center (NAC) at the National Advocacy Center in Columbia, South Carolina. Most recently, for example, the Division provided specific training on the racial profiling Guidance at its criminal and civil training sessions held at the NAC in 2006 and already in 2007. The Division over the years also has engaged in outreach efforts with groups such as the International Association of Chiefs of Police to discuss the federal racial profiling Guidance. In 2007, the Division plans to train the legal advisors of federal law enforcement agencies and senior police officers.

QUESTIONS FROM SENATOR FEINSTEIN

Feinstein 277 **What steps is the Department taking to respond to the latest violent crime trends? When does the Department expect to complete its review of 18 metropolitan areas? Will the results of this review be shared with the Committee?**

ANSWER: Federal prosecutors continue to focus resources on the most serious violent offenders, taking them off the streets and putting them behind bars where they cannot re-offend. In FY 2006, the Department prosecuted 10,425 federal firearms cases against 12,479 defendants, an increase in case filings of over 65% since the inception of Project Safe Neighborhoods.

The Department has also taken several important steps to address the prevalence of gang violence. The Department established an Anti-Gang Coordination Committee to organize the Department's wide-ranging efforts to combat gangs. Each United States Attorney has appointed an Anti-Gang Coordinator to provide leadership and focus to our anti-gang efforts at the district level. The Anti-Gang Coordinators, in consultation with their local law enforcement and community partners, have developed comprehensive, district-wide strategies to address the gang problems in their districts. The Department has also established a Comprehensive Anti-Gang Initiative, which focuses on reducing gang membership and gang violence through enforcement, prevention, and reentry strategies.

The Department has created a new national gang task force, called the National Gang Targeting, Enforcement and Coordination Center (GangTECC). GangTECC is composed of representatives from the Bureau of Alcohol, Tobacco, Firearms and Explosives, Bureau of Prisons, Drug Enforcement Administration, Federal Bureau of Investigation, United States Marshals Service, and the Department of Homeland Security, among others. The center coordinates overlapping investigations, ensures that tactical and strategic intelligence is shared among law enforcement agencies, and serves as a coordinating center for multi-jurisdictional gang investigations involving federal law enforcement agencies. In conjunction with GangTECC, the Department has also created the Gang Squad, a group of experienced anti-gang prosecutors charged with developing and implementing strategies to attack the most significant national and international gangs in the U.S., as well as prosecuting select gang cases of national importance.

The Department has established and leads numerous joint violent crime-related task forces, including, among others, FBI-led Safe Streets Task Forces and Gang Safe Streets Task Forces that focus on dismantling organized gangs; U.S. Marshals Service-led Congressionally-mandated Regional Fugitive Task Forces and district-based task forces across the country that focus on fugitive apprehension efforts; and ATF-led Violent Crime Impact Teams, which include federal agents from numerous agencies and state and local law enforcement, that identify, target, and arrest violent criminals to reduce the occurrence of homicide and firearm-related violent crime.

The President's fiscal year 2008 budget request seeks $200,000,000 from Congress for the Violent Crime Reduction Partnership Initiative. The initiative will assist state, local, and tribal governments in responding to violent crime, including chronic gang, drug, and gun violence, through support for multi-jurisdictional violent crime task forces. Built on the lessons learned from some of the nation's most effective crime task forces, the primary goals of the initiative are to: (1) address spikes or areas of increased violent crime in local communities; (2) disrupt criminal gang, gun, and drug activities, particularly those with multi-jurisdictional characteristics; and (3) prevent violent crime by improving criminal intelligence and information sharing. Through discretionary funding to law enforcement task forces, the initiative will allow communities to address specific violent crime problems with focused strategies, including task force-driven street enforcement and investigations and intelligence gathering.

The Attorney General's Initiative for Safer Communities is ongoing. The initiative has brought together local law enforcement from 18 jurisdictions throughout the country and Justice Department officials to investigate the factors contributing to a rise in violent crime in certain cities and identify programs that have been successful at keeping communities safer. Justice Department officials have completed their meetings with local officials. This spring, with the benefit of the information received during these meetings, the Attorney General will announce additional steps the Department of Justice will take to assist state and local law enforcement to address the violent crime issues in their respective communities.

Feinstein 279 **What is being done about the disturbing increases in gang violence in Los Angeles, San Fernando Valley, Sacramento and elsewhere?**

ANSWER: The Department of Justice is actively working with local and state law enforcement authorities in California, as well as other parts of the country, to address recent increases in gang violence. On the enforcement side, joint federal, state and local task forces in Los Angeles, San Fernando Valley and Sacramento are aggressively investigating and prosecuting gang members who commit crimes. Agents from the FBI, DEA and ATF have all been directed to support the efforts of local law enforcement in these communities to address gang violence. The work of these task forces has led to numerous prosecutions of various gang members who have committed violent crimes. While many defendants are prosecuted in the state system, the United States Attorney's Offices have and will continue to prosecute, where possible, gang members under federal racketeering, money laundering, narcotics, gun and civil rights laws in order to take full advantage of the stiff sentences meted out in the federal system.

In Los Angeles, the Los Angeles Police Department ("LAPD"), recently announced a series of Gang Enforcement Initiatives for 2007. Two of the initiatives involve the identification and targeting by law enforcement of the most active and violent gangs and gang members. Federal law enforcement agencies, including the FBI, DEA and ATF, have signed on and will assist LAPD in actively investigating these gangs and gang members. To support these efforts, the FBI recently announced that it will also be sending in a large team of additional agents to work in the LAPD's South Bureau, an area of the city with a particularly acute gang violence problem.

The Sacramento Police Department is actively targeting gang members with the help of federal funding provided by Project Safe Neighborhoods, a Presidential initiative aimed at getting illegal guns off America's streets. This funding has enabled the Sacramento Police Department to develop a crime mapping system, hire a gun fingerprint examiner and pay overtime to deputy sheriffs working on gang investigations. Funding has also enabled the Sacramento County Crime Lab and District Attorney's Office to hire additional personnel to investigate and prosecute gun and gang violence. An ATF-led task force is also up and running and actively targeting gang members.

Many of the most violent gangs present in California also have a significant presence in foreign countries, including Mexico, Guatemala, Honduras, Costa Rica, and El Salvador. To address this, in February 2007 the Department sponsored an International Chiefs of Police Summit on Transnational Gangs in Los Angeles where law enforcement officials from California and Central American nations came together to discuss and develop joint enforcement, information sharing and intervention strategies aimed at addressing their common gang problems. The conference was very successful and a follow up conference will be held in April 2007 in El Salvador.

The Department's response to gang violence whether in California, overseas or elsewhere, is not limited to extensive and aggressive law enforcement efforts. The Department recognizes, as do its state and local law enforcement partners, that effective gang prevention and intervention efforts are also necessary. In Los Angeles County, Community Law Enforcement and Recovery ("CLEAR") Programs have been established in six locations where gang violence has been particularly problematic. These grant-funded programs couple an intense enforcement effort in the targeted location with community-led gang intervention efforts directed at diverting at-risk youth from gang involvement. Intervention efforts are developed and implemented by members of the community as well as parole, probation and local school officials.

Most recently, the Department selected a neighborhood in Watts as one of six sites nationally to receive supplemental anti-gang funding in the amount of $2.5 million. Consistent with the Department's overall gang strategy, this money will be used to enhance enforcement, prevention and prisoner reentry efforts in the target area which has a substantial gang presence. $1.5 million will go directly to support prevention and reentry programs designed in conjunction with input from local citizens, community organizations and parole and probation officials.

A number of other federally-funded programs also recognize the need to couple enforcement with prevention and intervention efforts. The Department currently funds four Weed & Seed sites in the Los Angeles area and two Weed & Seed sites in Sacramento with significant gang related crime problems. These sites couple enforcement with gang prevention programs ranging from gang resistance education for elementary school students to summer job programs for teens. In Sacramento, the funding is being used to more closely monitor gang members on probation so that they do not resume the same gang activities that sent them to prison in the first place and to hold Gang Awareness Information Seminars for teachers, parents and others. In Los Angeles, a Gang Reduction Project in the Boyle Heights area is led by the Mayor's office and includes local and federal law enforcement representatives as well as a variety of community-based organizations and residents. This project supports a variety of gang prevention programs, including truancy prevention, a teen court, social services, and jobs programs.

A Public Housing Safety Initiative, funded by the Department and HUD, is in place in the Jordan Downs housing development in Watts, the territory claimed by the violent Grape Street Crips gang. A surveillance camera system has been installed to deter gang activity, particularly in areas where children walk to and from school. A community policing model has also been employed in the area, with a team of LAPD officers specifically assigned to the housing development in an effort to break down barriers of distrust that have developed between residents and officers over the years. In addition, a coalition of social service providers operate a one-stop location within the housing development to refer residents to a variety of social services including childcare, tutoring, English as a second language classes, and job training and placement programs.

As these efforts demonstrate, the Department, as well as its state and local counterparts, recognize the gang problem and are addressing it through aggressive enforcement and extensive intervention efforts.

Feinstein 282 **The 109th Congress failed to pass a CJS Appropriations bill, leaving the Department and others to operate at last year's budget levels. In reaction to this situation, according to a recent article in the Washington Post, the DEA has now put in place a hiring freeze that will last through 2007. Because agents who are expected to quit or retire this year will not be replaced, the DEA expects to be down 400 agents and support staff by year's end. The ATF likewise will not be hiring or backfilling open positions. The FBI also reports that it is only filling positions that are essential to its operations, and has suggested that Phase 2 of its Sentinel computer project's implementation may get delayed. Meanwhile, the Wall Street Journal has noted the current staffing shortages at U.S. Attorney's Offices nationwide – a 10% shortage of federal prosecutors generally, and 20% in some offices – and warns that this shortage may worsen in the coming year. How much do you anticipate the work force will shrink in each of these agencies if there**

is a full-year Continuing Resolution at the FY2006 rate? What effect do you expect these reductions to have on federal law enforcement and prosecution efforts?

ANSWER: The Congress has passed and the President has signed into law a FY 2007 Joint Resolution (Pub. L. No. 110-5), which funds DOJ, among other Departments, for the remainder of FY 2007. The FY 2007 appropriation provides DOJ with the resources for pay adjustments, increases for rent and other mandatory costs, as well as some priority program increases. In fact, the appropriation provides funding for the FBI at a level requested in the FY 2007 President's Budget. Funding for the U.S. Attorneys is slightly less than the FY 2007 request. Funding for ATF is $124 million more than the President's request level and provides sufficient funding to maintain ATF's mission level. Funding for DEA is $8.7 million more than the President's request level but still requires DEA to maintain a managed hiring level to reduce lower priority programs, which is consistent with the President's Budget proposal. The funding level in the JR is not affecting the Department's staffing levels, with the exception of DEA. As stated above, DEA is maintaining a managed hiring level to reduce lower priority programs, but other Justice components are continuing to hire personnel to staff their programs, within their respective budget levels.

Feinstein 283 **Do you anticipate that some or all of the agencies will attempt to reduce operational expenditures in order to minimize reductions in payroll? If so, what will be the consequences of those reductions?**

ANSWER: The FY 2007 Joint Resolution (Pub. L. No. 110-5) that was enacted on February 15, 2007, included resources for all Department of Justice components' requirements at, or above, the current services level requested in the 2007 President's Budget. This assures that personnel-related resources are sufficient to fund the base level of employment planned in the President's Budget request; and, for a few high priority programs, some limited staffing increases. Based on the funding level provided in the Joint Resolution, the Department does not anticipate a need to reduce operational expenditures in order to minimize payroll during FY 2007.

Feinstein 284 **How do the Justice Department and its component agencies plan to manage the funding shortfall during FY2007?**

ANSWER: With the level of funding provided in the FY 2007 Joint Resolution (Pub. L. No. 110-5), some of the Department's components will be able to fund the program enhancements requested in the FY 2007 President's Budget. Many DOJ components, however, will not be able to fully fund requested enhancements, and in some cases will function at the current services level of operations, which ensures continuation of activities in effect in FY 2006.

Feinstein 286 **What steps has the Justice Department taken to ensure that the OneDOJ database is secured against data breaches?**

ANSWER: R-DEx was developed and is operated consistent with the Federal Information Security and Management Act (FISMA) and the Department's automated systems security and access policies.

Administrative and technological controls secure the information contained within R-DEx. The Security Administrator and the System Administrator are two major components of the R-DEx administration. The Security Administrators are responsible for viewing, monitoring, and archiving security logs and audit trails and may also be given the ability to add, change, or delete users and their system access privileges. The System Administrators are responsible for the maintenance and operation of the system as a whole, including backing up the system and its recovery.

Passwords, password protection identification features, and other system protection methods also restrict access to R-DEx information. Only DOJ personnel and members of trusted law enforcement agencies that have undergone background/criminal history checks, and received appropriate training are permitted to access the system; and such access is limited to those who have an official need for access in order to perform their duties.

Memorandums of Understating (MOUs) between all law enforcement partners stipulate how recipients can use data shared via R-DEx. One stipulation states that R-DEx information may not be used as the basis for any action or disseminated for any other purpose or in any other manner outside of the agency that accessed the information, unless that agency first obtains the express permission of the agency that contributed the information.

The R-DEx repository is physically protected in compliance with DOJ guidelines for Information Technology Security (DOJ 2640.2E) pertaining to both physical and environmental security. Records and technical equipment are maintained in buildings with restricted access. Hardware and electronic media used in the R-DEx system are protected in accordance with the sensitivity of the data, which the system is authorized to process, store, or transmit. All R-DEx hardware components and electronic media have external classification markings.

R-DEx is also protected by boundary protection devices (e.g., firewalls and trusted guards) at identified points of interface with networks or systems. The R-DEx solution employs virus protection software, encryption technology during transmission to ensure data security, and intrusion detection systems. Intrusion detection systems operate in a manner that is compliant with Title 18, Section 2511 of the United States Code, and the Electronic Communications Privacy Act.

QUESTIONS FROM SENATOR FEINGOLD

Feingold 317 **This committee recently held oversight hearings on the Department of Justice Civil Rights Division and on the FBI. At the Civil Rights hearing in particular, we heard complaints that this administration has stepped back from vigorous enforcement of civil rights laws. In your testimony, you address civil rights last and then only address one aspect of civil rights enforcement. What are you doing to ensure that the DOJ does not neglect civil rights enforcement as it fulfills all of its other important responsibilities?**

ANSWER: The protection of civil rights is one of my top strategic priorities, and we discussed these issues regularly with the head of the Civil Rights Division. The Department has been active in enforcing the federal civil rights laws on behalf of all Americans, achieving many successes during this Administration. Some of the highlights of this Administration's record in civil rights enforcement are:

During the past 6 years, the Civil Rights Division has litigated more cases on behalf of minority language voters than in all other years combined since 1975, when the minority language provisions were enacted. Specifically, we have successfully litigated almost 60 percent of all language minority cases in the history of the minority language provisions of the Voting Rights Act.

During the past six years, we have brought seven of the nine cases ever filed under Section 208 of the Voting Rights Act, including the first case ever under the Voting Rights Act to protect the rights of Haitian Americans.

In the past six fiscal years (FY 2001 - 2006), as compared to the previous six years (FY 1995 - FY 2000), the Criminal Section filed 25% more color of law cases, charged 15% more defendants, and obtained convictions for 50% more defendants.

In Fiscal Year 2004, we brought ninety-six criminal civil rights prosecutions, a record for cases filed in a single year.

From FY 2001 through FY 2006, the Division brought 39 cross-burning prosecutions, charging a total of 60 defendants. The Division obtained the convictions of 58 cross-burning defendants during that same period.

From FY 2001 to FY 2006, the Department prosecuted 360 human trafficking defendants, secured almost 240 convictions and guilty pleas, and opened nearly 650 new investigations. That represents a six-fold increase in the number of human trafficking cases filed in court, quadruple the number of defendants charged, and triple the number of defendants convicted in comparison to 1995-2000.

In recent years, the Division has teamed up with local prosecutors in an effort to prosecute historical civil rights era murders. On January 25, 2007, the federal district court in Jackson, Mississippi, unsealed an indictment charging James Seale, 71, with two counts of kidnapping resulting in death and one count of conspiracy in connection with the 1964 abductions and murders of 19-year-old African-Americans, Charles Moore and Henry Dee. Seale, a former member of the White Knights of the Ku Klux Klan, is charged with having acted in concert with fellow klansmen to kidnap Moore and Dee, beat them, transport them across state lines, and murder them by attaching heavy weights to them and throwing them, still alive, into the Old Mississippi River. If the defendant is convicted, he will face a maximum sentence of life imprisonment on each count.

We also assisted a Mississippi district attorney's office in reopening the investigation into the 1955 murder of Emmett Till, a 14-year-old African-American teenager who was kidnapped and killed in rural Mississippi. We reported the results of that investigation to the District Attorney for Greenville, Mississippi, for consideration of whether to pursue state charges.

Also, in 2003, the Justice Department convicted Ernest Avants for the 1966 killing of Ben Chester White, an African-American sharecropper, on national forest land. White was murdered as part of a plot by white supremacists to lure Martin Luther King, Jr., to Mississippi so that they could assassinate him.

Since the January 2001 announcement of the President's New Freedom Initiative, the Division's Disability Rights Section has secured positive results for people with disabilities in over 2,000 actions under the Americans with Disabilities Act ("ADA"), including lawsuits, settlement agreements, and successful mediations.

During the past 6 years, we have improved the lives of more than 3 million Americans with disabilities through agreements under Project Civic Access.

We have authorized over 30 percent more investigations under the Civil Rights of Institutionalized Persons Act (CRIPA) in the past five and one-half years than in the previous comparable time frame.

With regard to juvenile justice facilities, this Administration has increased the number of settlement agreements by 60%, has more than doubled the number of investigations, and has more than doubled the number of findings letters issued.

We have worked to ensure the integrity of law enforcement by more than tripling the number of settlements negotiated with police departments across the country since 2001. From 2001 to 2006, we successfully resolved fourteen pattern or practice police misconduct investigations involving eleven law enforcement agencies, compared to only four investigations resolved by settlement during a comparable time period of the previous administration.

From 2001 to 2006, the Division has opened more pattern or practice police misconduct investigations (16 vs. 15) and filed more consent decrees (4 vs. 3) than in the preceding relevant time period. We have also issued more than six times the numbers of technical assistance letters to police departments (19 vs. 3).

In 2002, we established a Special Counsel for Religious Discrimination to coordinate the protection of religious liberties. We have won virtually every religious discrimination case in which we have been involved, and have increased the enforcement of religious liberties in all areas of our jurisdiction. For example, we reviewed 82 cases of alleged religious discrimination in education from FY 2001 to FY 2006, resulting in 40 investigations. This is compared to one review and one investigation in the prior six-year period.

Under our post 9/11 backlash initiative, the Department has investigated over 750 incidents since 9/11 involving violence, threats, vandalism and arson against Arab-Americans, Muslims, Sikhs, South-Asian Americans and other individuals perceived to be of Middle Eastern origin. We have obtained 32 federal convictions in such cases. We have also assisted local law enforcement in bringing more than 160 such criminal prosecutions.

During this Administration, we have used the Division's housing testing program in new ways. We have tested for the first time to detect discrimination against guide-dog users. We filed and settled the first case developed by the testing program that alleged that a retirement community discriminated against wheelchair users. In addition, we have tested for the first time to detect discrimination against certain minorities.

During this Administration, we have filed forty cases alleging that multi-family housing was not designed and constructed in compliance with the Fair Housing Act's requirements for accessible housing. Our settlements in FY 2005 alone created more than 12,000 new accessible housing opportunities.

I am committed to continuing the Department's vigorous enforcement of the federal civil rights laws.

Feingold 318 **I welcomed the President's pledge to end racial profiling in his first address to a joint Congress back in February 2001, as well as his accompanying charge to Attorney General Ashcroft to actively work with Congress and state and local law enforcement towards that end. (a) What have you done since assuming your office on racial profiling, which both the President and the former Attorney General declared was a priority? How has DOJ ensured that this priority—ending racial profiling—has not been overlooked or neglected for other matters?**

ANSWER: Please see our answer to question 275, above.

Feingold 320 **Do you support eliminating the exception for national security investigations from current federal racial profiling guidelines? If not, why not?**

ANSWER: As stated in response to questions 318 and 319 above, this Administration has declared that racial profiling is "wrong and we will end it in America." The June 2003 Guidance Regarding the Use of Race by Federal Law Enforcement Agencies acknowledges that, "in many cases imposes more restrictions on the consideration of race and ethnicity in Federal law enforcement than the Constitution requires."

However, as the Guidance states:

> Since the terrorist attacks on September 11, 2001, the President has emphasized that federal law enforcement personnel must use every legitimate tool to prevent future attacks, protect our Nation's borders, and deter those who would cause the devastating harm to our Nation and its people through the use of biological or chemical weapons, other weapons of mass destruction, suicide hijackings, or any other means. "It is 'obvious and unarguable' that no governmental interest is more compelling than the security of the Nation."

Consequently, "[i]n investigating or preventing threats to national security or other catastrophic events or in enforcing laws protecting the integrity of the Nation's borders, Federal law enforcement officers may consider race or ethnicity to the extent permitted by the Constitution and laws of the United States."

This Guidance thereby strikes an appropriate balance between our national security interests and improper racial or ethnic profiling.

Feingold 321 **According to news reports, two U.S. citizens, Muhammad and Jaber Ismail, were denied entry into the U.S. for more than five months, forced to wait in Pakistan until they were cleared by the Department of Homeland Security. Both the San Francisco Chronicle, on August 26, 2006, and the New York Times, on August 28, 2006, reported that the government would not allow the men back into the country unless and until they agreed to FBI interrogations in Pakistan. These articles indicated the FBI was directly involved in the matter and that FBI agents insisted at least one of the men take a polygraph test and allow himself to be interrogated without representation before either man would be cleared to return to the United States.**

The New York Times article also reported that the two men were not immediately informed as to why they were unable to enter the country, but instead were initially advised that there was a problem with their passports and then later told by the U.S. embassy in Pakistan that their inability to enter the country was a mistake. The New York Times story states that based upon the advice of the embassy, the two booked a second set of tickets to return to the U.S., only to be rebuffed at the

airport again. Their lawyers allege that they were not contacted by the FBI until after their second attempt to return to the U.S., which itself was weeks after their original flight was to have left. (a) Are the allegations in these news reports true? Please specify any inaccuracies.

ANSWER: Pursuant to longstanding Department policy against disclosing non-public information concerning pending law enforcement and litigation matters, we are unable to provide a response at this time.

Feingold 324 **Is DOJ now or has it ever been involved in a situation where a U.S. citizen is denied entry into the United States pending cooperation with a government investigation?**

ANSWER: The decision to grant or deny entry into the United States is entrusted to the Department of Homeland Security. This question should be referred to the Department of Homeland Security.

Feingold 326 **The Prison Litigation Reform Act (PLRA) was enacted in 1996, so we have a decade of experience to draw on when considering its strengths and flaws. This experience is particularly important since, prior to passing the bill, only one substantive hearing was held to consider potential implications of the reforms. According to the 2006 report filed by the bipartisan Commission on Safety and Abuse in America's Prisons, the PLRA has had the unintended consequence of reducing legitimate oversight of our nation's prisons by placing excessive barriers to bringing suit for even the most meritorious claimants and by restricting the opportunities for settlement once a suit has been filed. (a) From your vantage point, what has the effect of the PLRA been thus far?**

ANSWER: The PLRA strives to strike a balance between reducing the number of frivolous prisoner suits on the one hand, while preserving the ability of prisoners to file meritorious claims on the other. *See Woodford v. Ngo,* 126 S. Ct. 2378, 2401 (2006). In 1995, prisoners brought more than 25 percent of the suits filed in district court. *See Roller v. Gunn,* 107 F.3d 227, 230 (4th Cir. 1997) (citing Administrative Office of the United States Courts, 1995 Federal Court Management Statistics at 167). Ten years later, prisoner suits seeking to challenge conditions of confinement or alleging civil rights violations accounted for about 10 percent of all civil cases filed in the district courts. *See Jones v. Bock*, 75 U.S.L.W. 4058 n.1 (U.S. Jan. 22, 2007). In the past five years, appellate litigation by prisoners has decreased by about five percent. *Judicial Facts and Figures,* Administrative Office of the U.S. Courts, Table 2.4 n.2. Clearly, the PLRA has reduced the number of prisoner suits.

Despite the reduced number of cases filed in the district courts and appealed to the courts of appeals, the data show that prisoners continue to file tens of thousands of lawsuits every year. In 2005, inmates filed 24,614 suits in district court challenging their conditions of confinement or alleging civil rights violations. Prisoners filed an additional 24,644 petitions for a writ of habeas corpus – some of which seek judicial review of prison conditions and policies. On average, each of the 642 active district judges is required to adjudicate 76 of these cases every year. *Judicial Facts and Figures*, Administrative Office of the U.S. Courts, Tables 1.1 & 4.6.

The statistics indicate that, while the share of prisoner litigation as a percentage of all suits in the federal courts has been somewhat reduced since the PLRA's enactment, inmates continue to enjoy access to the courts at both the trial and appellate levels.

QUESTIONS FROM SENATOR SCHUMER

Schumer 338 **Please provide the Committee with copies of any motions, memoranda, or applications that the Government has submitted, which argue in any way that a legal claim should fail because of the recent decision to conduct electronic surveillance within FISA.**

ANSWER: Please see the attached documents.

Schumer 348 **Some have expressed concern about the level of relevant experience of various top level Department of Justice officials and United States Attorneys around the country. Please ANSWER the following questions to fill in the record on the backgrounds of our most important law enforcement officials. How many United States Attorneys have been nominated during the Bush Administration to date?**

ANSWER: This Administration has placed significant value on previous prosecution experience. As of April 16, 2007, the President has nominated 129 well-qualified men and women for the office of United States Attorney. Of those, 102 had prior experience as prosecutors (79%); 74 had prior experience as federal prosecutors (57%); 56 had prior experience as state or local prosecutors (43%); 106 had prior experience as prosecutors or government litigators on the civil side (82%); and 10 had judicial experience (8%).

In contrast, of President Clinton's 122 nominees who were confirmed by the Senate, 84 had prior experience as prosecutors (69%); 56 had prior experience as federal prosecutors (46%); 40 had prior experience as state or local prosecutors (33%); 87 had prior experience as prosecutors or government litigators on the civil side (71%); and 12 had judicial experience (10%).

Two of the President's nominees to be United States Attorney—Rosa Rodriguez-Velez (Puerto Rico) and Jeffrey Taylor (District of Columbia)—are awaiting Senate confirmation. The nomination of Scott Abdallah (South Dakota) was withdrawn on January 23, 2002, and another nomination—that of Phillip Green (Southern District of Illinois)—was returned by the Senate on December 8, 2006.

Schumer 349 **How many of those nominated had any prosecutorial experience before their nominations?**

ANSWER: Please see our response to question 348, above.

Schumer 350 **Of those, how many had prosecutorial experience at the local level?**

ANSWER: Please see our response to question 348, above.

Schumer 351 **How many had prosecutorial experience at the federal level?**

ANSWER: Please see our response to question 348, above.

Schumer 376 **As FBI Director Mueller confirmed to the Senate Committee on the Judiciary on December 6, 2006, only 33 of 12,000 FBI Special Agents are proficient in Arabic. Of these, only six have Arabic language skills rated "advanced proficiency." Do you agree that for the FBI's counterterrorism work to be effective, more agents need to be proficient in Arabic?**

ANSWER: The FBI's counterterrorism work has been extremely effective because of the synergies achieved between SAs, IAs, language analysts, and contract linguists. The FBI has 267 linguists who are proficient in Arabic and who support SAs by accompanying them to interviews and providing native knowledge of history, culture, religion, and geography. These linguists are assigned to more than 100 locations throughout the world. Within the United States, the heaviest concentrations of the FBI's linguists are found in major metropolitan areas at our largest field offices. These offices have been the greatest consumers of the foreign language interpretation and translation services provided by the Bureau's Language Services Section. In these locations, language analysts routinely serve as interpreters accompanying SAs who conduct interviews or interrogations.

Used in this way, SAs benefit not only from the language analysts' native-level language abilities, but also from the linguists' native knowledge of history, culture, religion, and geography. Further, as native speakers, these linguists are often more adept at identifying non-verbal cues that a non-native speaker might not recognize. SAs also often rely on the language interpreting process itself - even when the SA has a working level of proficiency in the required language - as part of interrogation or interview tactics designed to elicit specific information from subjects or witnesses.

It is important to understand that no national security threats have gone unaddressed due to an insufficiency of Arabic-speaking FBI SAs. Despite the limited number of Arabic-speaking SAs, the FBI has been able to address national security threats by maximizing our use of our on-board Arabic-speaking SAs, using our non-SA Arabic-speaking employees in direct support of operations, and turning to our partners in the intelligence, law enforcement, and military communities to provide language resources to address the national security threats as they arise. Nonetheless, our efforts to address national security threats have been made more challenging by our limited number of Arabic-speaking SAs. For example, this limitation makes it more difficult for the FBI to interact with, recruit sources in, and interview subjects and witnesses in Arabic speaking communities.

The number of Arabic speaking agents has also not adversely impacted the FBI's ability to develop relationships with the Arab-American/Muslim communities within the United States. The FBI's Community Relations Unit has established a close working relationship with Arab-American, Muslim, Sikh, and South Asian leaders at the national level. All 56 FBI field offices have also established and/or strengthened relationships within those communities in their jurisdictions.

The FBI is very aware of our need for more investigators with Arabic language abilities and we have adjusted our hiring practices with a view toward the recruitment and retention of SAs with relevant language skills. While clearly the objective of maintaining a cadre of employees with language abilities sufficient to address national security matters in a timely fashion is made more challenging by the fact that the individuals who threaten us speak a wide variety of languages, in a plethora of dialects, and come from a wide range of social, cultural, geographic, and religious backgrounds, we are actively recruiting and training those who can best serve in this complex and challenging mission. The FBI is implementing expedited testing and security background processing of SA applicants who possess fluency in critical foreign languages. As a result of these procedures, a large number of SAs who possess fluency in foreign languages critical to the FBI are expected to attend new Agents training classes in July, August, and September, 2007.

Schumer 377 **In your view, what percentage and what number of the FBI's agents should be proficient in Arabic for the agency's counterterrorism work to be effective?**

ANSWER: Please see the response to Question 376, above.

Schumer 378 **Can you commit to a date by which the FBI will have the percentage of Arabic-proficient agents needed for effectiveness in counterterrorism?**

ANSWER: Please see the response to Question 376, above.

Schumer 382 **Depositions in a recent lawsuit filed by Bassem Youssef, the FBI's highest-ranking Arab-American agent, have revealed that many top FBI officials do not know the difference between Sunni and Shi'a Islam. (a) Do you think that top FBI officials should have a basic understanding of Islam and of Middle Eastern cultures?**

ANSWER: It is important that all FBI investigators understand the dynamics that shape the terrorist threat facing our country. The FBI has made it a priority to ensure that our work force understands the bases of violent Islamic extremist ideologies, and has placed particular emphasis on understanding Muslim culture and the Islamic religion. This is evidenced by the counterterrorism and cultural training made available to our employees. This training teaches us to interact better with Muslim communities and to build the trust critical to effective community policing. Within the counterterrorism program, the provision to our counterterrorism workforce of the correct tools and relevant knowledge is one of our highest priorities. The current senior leaders in the FBI's Counterterrorism Division (CTD) have acquired this familiarity through their daily work, their past interactions with Muslim communities during field assignments, and study in this area. These leaders are also knowledgeable regarding terrorists' operational methods and their criminal activities, neither of which depend on Islamic ideology. Because management and leadership qualities are as important as substantive expertise, it is also important that CTD managers come to their jobs with lengthy and in-depth experience managing high-profile investigative and intelligence efforts.

Since 9/11, the FBI's counterterrorism program has grown quickly and is the FBI's top investigative priority. This rapid growth has been fueled by a reallocation of our best investigators, managers, and leaders to the counterterrorism mission. We have also refocused our recruiting and hiring to attract individuals with skills critical to our counterterrorism and intelligence missions. These new recruits have included hundreds of IAs, translators, and SAs.

Schumer 383 **What specific steps, if any, are you and/or Director Mueller taking to remedy the current situation and to ensure that top FBI officials have a basic understanding of Islam and of Middle Eastern cultures?**

ANSWER: Please see the response to Question 382, above.

Schumer 393 **The progress of the FBI's Sentinel case management system has been closely watched by the Senate Committee on the Judiciary, especially given the failure of the FBI's prior attempt to create such a system. The Inspector General's newest report on Sentinel, issued in December 2006, expressed continued concern that the cost of Sentinel in FY 2007 will force the FBI to reprogram funds intended for other purposes.**
Do you expect this to happen?

ANSWER: Please see our response to Question 394, which was transmitted to the Committee on April 13, 2007.

Schumer 395 **An experienced civil service is the backbone of all our agencies, and the Department of Justice can boast of a long tradition of excellence and commitment. Unfortunately, this tradition has been shaken in recent years by evidence that conservative ideology now outweighs traditional civil rights experience in hiring for the Civil Rights Division. As has been documented in various press reports, the profile and experience of incoming attorneys has changed markedly during the past few years. The Civil Rights Division advertised that it planned to fill 10 positions in the fall of 2006 through the Honors program.**

Please explain whether you made any changes to the Honors program hiring process this year in response to concerns about politicization in Civil Rights Division hiring. If so, what were the changes?

ANSWER: No changes have been made to the Honors Program this year in response to concerns about politicization. Consistent with the Attorney General's management style and historical practices, however, we have included a large number of career employees in the Honors Program hiring process.

QUESTIONS FROM SENATOR CORNYN

Cornyn 420 **Can you update me on the efforts of the VCIT in general, as well as the efforts of federal law enforcement in working on the kidnappings of the Laredo Missing?**

ANSWER: The ATF is currently operating a VCIT through its field office in Laredo, Texas. The VCIT was established in October 2005. As a result of the VCIT efforts, ATF has established very successful partnerships with every local, state, and Federal agency in the area. The FBI, Laredo Police Department, and the Webb County Sheriff's office are currently the lead agencies addressing kidnappings and missing persons along the U.S.-Mexico border. Since 2005, ATF has assisted with several investigations involving attempted kidnappings, attempted murders, and a variety of other criminal acts related to the ongoing rivalry between two major drug cartels fighting for control of the northern border, specifically Nuevo Laredo, Tamaulipas, Mexico and Laredo, Texas. ATF has been successful in working with the Assistant United States Attorney's Office in the Southern District of Texas in applying Gun Control Act and National Firearms Act statutes against numerous criminal aliens and members of local organized gangs who engage in criminal conspiracies that enhance major Drug Trafficking Organizations' operations, i.e. kidnappings, murder for hire, straw purchases, and general firearms and ammunition trafficking.

Additionally, in response to your inquiry regarding violence in the Laredo region, we are attaching our responses to Questions for the Record, dated March 3, 2006, which were posed to the Federal Bureau of Investigation following a House Committee on the Judiciary Subcommittee hearing.

Cornyn 421 **Please describe the level of cooperation the Mexican government is providing to our law enforcement officials related to the violence along the Texas/Mexico border?**

ANSWER: The Department of Justice continues to strive to investigate and prosecute "narco-violence" at the Southwest Border. Recently, the Government of Mexico has demonstrated its commitment to quelling this violence and to working cooperatively with U.S. law enforcement to this end. In January 2007, Attorney General Gonzales and Mexican Attorney General Medina Mora met in Mexico City to explore ways to deepen our law enforcement cooperation, particularly as it relates to the "narco-violence" at our shared border. Several avenues for strengthening our bilateral cooperation were agreed upon, for example, the Mexican Secretary of Public Security will visit one of our Bureau of Prisons maximum security institutions and learn of our regulations to reduce contact of high security inmates with their criminal cohorts, and the Acting Director of the Bureau of Alcohol, Tobacco, and Firearms will travel to Mexico City this month to meet with Attorney General Medina Mora and his staff to discuss arms trafficking concerns. In addition, in January, the Government of Mexico extradited to the U.S.

15 fugitives who had been sought for extradition to the U.S., including the leader of the Gulf Cartel (Osiel Cardenas Guillen) who is believed to be responsible for fomenting a great deal of the narco-violence at the border, two high level members of the Tijuana Cartel, and Hector Palma Salazar, a former leader of the Sonora group. In addition, the group included other traffickers, a defendant sought for trafficking in persons, two accused of homicide, and one charged with sexual assault on minors. The cooperation level between law enforcement of our two countries is the strongest in recent memory.

The foundation for this improvement was laid over the past several years. For example, in October 2005, the Attorneys General from Mexico, the United States, the State of Tamaulipas in Mexico, and the State of Texas met in San Antonio, Texas to discuss and launch a series of law enforcement initiatives aimed at strengthening the coordinated attack on border narco-violence. The commitment demonstrated and bilateral efforts agreed upon at the time resulted in improved operational responses on both sides of the United States/Mexico border and the Mexican Government has continued to come through on that commitment. Coordination of law enforcement information-sharing between Mexican and United States law enforcement agencies, as it relates to forensics, prison security, victim/witness security, cross-border currency flows, and firearms trafficking, was also the subject of a bilateral initiative stemming from the October 2005 meeting. For instance, Mexican law enforcement has and continues to share with United States agencies critical real-time information and intelligence on criminal organizations operating along the border. Mexican law enforcement has also coordinated with the United States on search warrants, surveillance points on cartel targets, and operation checkpoints in Nuevo Laredo. In October 2005, the governments also agreed to establish points of contact and a regular course of meetings to improve and expedite information sharing opportunities to combat cross-border firearms trafficking. To that end, Mexican law enforcement has, among other efforts, been provided remote electronic access to trace seized firearms through the ATF databank, which has allowed the ATF to pursue rogue dealers in the U.S. who sold those weapons later used in drug trafficking and other violent crimes in Mexico.

In addition, as part of the U.S.-Mexico Senior Law Enforcement Plenary (SLEP), the two countries have regular meetings to coordinate initiatives, learn the progress of technical working groups, and overcome obstacles in our efforts against international criminal organizations. In October 2006, Mexican and United States SLEP officials met in Washington, D.C. where SLEP working group representatives reported on efforts against major drug trafficking groups, chemical controls, interdiction, firearms trafficking, fugitives and mutual legal assistance, money laundering and asset forfeiture, cybercrime and intellectual property violations, as well as on bilateral training and technical assistance and prisoner transfers. Among those bilateral efforts was the increased cooperation between DEA and Mexican law enforcement, particularly SIEDO (the Organized Crime Unit of the Mexican Attorney General's Office), in the sharing of information from judicially-authorized wiretaps, which in turn has resulted in an increased number of arrests in both Mexico and the United States. SLEP working group representatives also reported that in both 2005 and 2006, Mexico set new records for the number of fugitives extradited to the United States. Deportations from Mexico of fugitives wanted in the United States also increased over these time periods, further enabling United States prosecutions. Mexican SLEP representatives also reported they have established a tip-line to deal with persons involved in trafficking activities and have proposed an outreach program in which Mexican consulates would contact the Mexican community living in the United States to educate their citizens about the dangers of trafficking in persons and how they could help law enforcement efforts. Human trafficking along the border with Mexico continues to be a serious concern for both countries.

The Department of Justice and the entire federal law enforcement community will continue to explore with Mexican law enforcement opportunities that maximize efforts on both sides for disrupting and dismantling those criminal organizations responsible for the violence along our border.

Cornyn 422 **Does the FBI or the VCIT need any additional resources or authorities in dealing with these types of cross-border crimes?**

ANSWER: The Department of Justice will work with the Office of Management and Budget and the Congress to identify the programs and budgeting needed for the FBI to continue to fulfill its responsibilities.

Cornyn 423 **What is FBI doing to reduce the background check backlog?**

ANSWER: The FBI is sensitive to the impact of the delays in processing name check requests and is doing all it can to streamline the current process. Prior to 9/11/01, annual incoming workload averaged 2,500,000 name checks requests per year, while the current incoming workload is approximately 3,600,000 name checks per year. Below are the short-term and long-term strategies the FBI is employing to address name check requests Short-term strategies:

- The FBI's National Name Check Program Section (NNCPS) is partnering with its customer agencies to obtain contractor and/or personnel support. For example, in July 2006, the Office of Personnel Management (OPM) provided contractors cleared at the Top Secret level to work on OPM's name check requests. NNCPS is working closely with USCIS to develop a similar strategy to reduce its backlog.

- The NNCPS continues to improve its Name Check Dissemination Database, eliminating the manual preparation of duplicative reports.

- The NNCPS has established standard operating procedures and implemented a new NNCP Employee Development Training Program to decrease the time it takes new employees and contractors to learn the Name Check Program processes.

- The NNCPS has begun to build an Electronic Records System comprised of scanned paper files. Efficiencies will be realized when retained files can be stored and accessed electronically.

- In an effort to ensure a more secure and timely method of sending and receiving data, the NNCPS is continually exploring innovative means of streamlining the incoming product and automating the exchange of data with our customers.

Long-term strategies:

- The FBI is developing a central repository of records in digitized form, called the Central Records Complex. Currently, when information is needed, paper files must be retrieved from one or more of over 265 locations throughout the FBI. The Central Records Complex will simplify both the storage and production of these documents.

- The FBI is conducting a fee study to permit adjustment of the fee schedule to reflect the cost of providing name check services, allowing the FBI to scale resources proportionally with workload demands.

Cornyn 424 **What is FBI doing to address the potential national security concerns that may be raised because of the delays in providing responses on background checks?**

ANSWER: For terrorism-related national security threats, the National Name Check Program (NNCP) backlog delays should not raise the concern of an undetected terrorist at large in the U.S. for the following reason. It is USCIS practice to first run an applicant's name through the Interagency Border Inspection System (IBIS). If the applicant is a known or suspected terrorist (KST) who has been watch listed as such pursuant to terrorist watch list nomination and notice protocols established by HSPDs 6 and 11, his or her name will generate an IBIS "hit," which will be immediately referred to the Terrorist Screening Center (TSC) for verification in the Terrorist Screening Data Base and further referral to the FBI's Counter-Terrorism Division (CTD) for appropriate follow-up. CTD operational response personnel refer the matter to the FBI field office where the KST is being investigated or, if another agency nominated the KST for the watch list, to that agency. In other words, any watch listed KST applicant will not be placed in the NNCP process. In addition, it is common practice in many USCIS field offices to also contact the local FBI field office if they receive an IBIS "hit." For these KST applicants, USCIS works directly with the TSC and FBI CTD to ensure that USCIS is provided the most complete information known about them for use as appropriate in the USCIS adjudication process. DHS, the FBI and the TSC recently completed and signed a Memorandum of Understanding (MOU) to memorialize this process.

Applicants who may pose non-terrorism national security threats (e.g., economic espionage) and applicants who are not watch listed as KSTs but may be included in FBI terrorism investigations (as, for example, associates of KSTs) are referred to the NNCP process. For those and all other USCIS applicants in the NNCP process, USCIS and NNCP personnel are working on re-engineering the background process to expedite it and make it more efficient. This effort will also be memorialized in an MOU in the near future.

Cornyn 425 **What actions has DOJ taken to ensure that DHS receives expedited responses to background checks and that these responses contain sufficient information for the agency to make a decision on any immigration benefit?**

ANSWER: As explained in the response to Question 423 above, the FBI is actively engaged with USCIS in improving the background check process. The goal of USCIS and FBI efforts is to ensure that the most complete information available is disseminated to USCIS to enable the agency to perform its work. FBI and USCIS work within legal parameters in these efforts. At the same time, we are working to streamline the process by which information is gathered and shared. While FBI understands that USCIS has a need to know the derogatory information in order to perform its mission, the FBI is faced with certain legal and policy barriers that restrict the dissemination and use of some information in USCIS adjudication, such as grand jury information in purely criminal case files. We have met with USCIS numerous times and will continue to do so until the process is enhanced to our mutual satisfaction.

Cornyn 426 **When will DOJ provide DHS, particularly USCIS, with systems access to all FBI information that it needs to make defensible decisions on requests for immigration benefits (adjustment of status, employment authorization, petitions, etc.)?**

ANSWER: In addition to the MOU referenced in the response to Question 424, above, the FBI is in the process of establishing another MOU with USCIS regarding USCIS access to FBI systems in non-national security cases that complies with applicable laws, regulations, and policies. Discussions between the FBI and the USCIS in this regard are ongoing. The FBI/USCIS MOU now being negotiated will reflect an emphasis on prioritizing the search of the FBI files most likely to produce pertinent information for adjudication of the application.