

**Responses of
The Federal Bureau of Investigation**

**To Questions for the Record
Arising from a Hearing Before the
Subcommittee on Human Rights and the Law
Committee on the Judiciary
United States Senate**

**Entitled
“No Safe Haven: Accountability for Human Rights Violators, Part II”**

October 6, 2009

Questions Posed by Senator Coburn

1. Your agency received money for human rights investigations in FY09 appropriations, of which a similar amount and directive is included in the FY2010 appropriations bill pending now in the Senate. Did the FBI request this money in either FY09 or FY2010?

Response:

The Administration's budget requests to Congress in Fiscal Year (FY) 2009 and FY 2010 did not include additional funding for this initiative.

2. About how much does it cost to fund a single FBI agent?

Response:

A new FBI Agent costs, on average, approximately \$270,000 to \$287,000 in the first year of employment, including recruitment costs, initial training, new equipment, and a partial year's salary, among other factors. Thereafter, the recurring cost of an FBI Agent is approximately \$190,000 to \$368,000, depending on the Agent's pay grade, location, eligibility for danger pay, and other factors. This includes salary, the replacement cycle for equipment, ongoing training, and retirement and other benefits, among other factors.

3. What investigative functions are performed by the FBI that cannot be performed by other agencies in these human rights cases?

Response:

The FBI works closely with its U.S. interagency counterparts on matters related to human rights violations. Unlike some of our U.S. law enforcement partners, FBI criminal investigations are not limited to U.S. citizens or to domestic criminal activity. The FBI may generally initiate a human rights investigation when the perpetrator is a U.S. person, the victim is a U.S. person, or the perpetrator is located in the United States, regardless of nationality. (As discussed later, some offenses, such as war crimes under 18 U.S.C. § 2441, do not confer jurisdiction based solely upon the offender's presence in the United States.)

The FBI offers assistance to other U.S. Government (USG) agencies and international investigative bodies. The FBI's authorities uniquely position it to address broader jurisdictional and geographical matters, as evidenced by the FBI's history of complex, extraterritorial investigations. The FBI's operational foundation includes not only its 56 U.S. field offices but also its international cadre of 61 Legal Attachés serving in U.S. embassies worldwide. With this broad foundation, FBI personnel are able to pursue investigative and intelligence leads, uncover evidence, pursue perpetrators, and leverage a well-established international network of foreign law enforcement and intelligence partners.

The FBI has offered the use of its well-trained Special Agents (SAs), Intelligence Analysts (IAs), forensics experts, and attorneys in a number of human rights cases, where the expertise they offer in crime scene preservation, interviewing techniques, and other areas has proven vital to successful investigations. For example, the FBI's experts in the Behavioral Analysis Units at the National Center for the Analysis of Violent Crimes and the biometrics tools available through the FBI's Criminal Justice Information System Division have been integral to the identifications of both perpetrators and victims, and the FBI's Language Services Section has been instrumental in maximizing the language skills of SAs, IAs, and linguists to initiate, enhance, and support investigations worldwide.

4. a. Please describe how the FBI has been involved in the enforcement of human rights laws in the past.

Response:

Traditionally, FBI SAs have worked in tandem with IAs to investigate cases involving overseas homicides, political violence, mass atrocities, torture, kidnappings, hostage takings, and bombings against U.S. interests. The expertise the FBI has developed through these complex cases will enable the Genocide War Crimes Program (GWCP) to develop a more systematic approach to investigations related to genocide, kidnappings of specified persons, hostage

takings, overseas torture, war crimes, and recruitment or use of child soldiers, in violation of 18 U.S.C. §§ 1091, 1201, 1203, 2340A, 2441, and 2442, respectively.

b. Do you believe the FBI should be more involved in the day-to-day work on human rights cases?

Response:

The FBI should be involved in the day-to-day work on human rights particularly as it pertains to U.S. national security interests and to domestic public safety. The FBI is experienced in these unique investigations and is accustomed to balancing the need for objective pursuit of the facts with the preservation of civil liberties. The FBI works with its U.S. and international law enforcement partners and consults with international human rights organizations to develop respect for the rule of law and to improve law enforcement capabilities. Historically, the efforts of the GWCP have been integrated with programs in the Department of Justice, Department of Homeland Security, Immigration and Customs Enforcement, Department of State, and others in the U.S. Intelligence Community. This interagency collaboration has provided the foundation for an effective investigative synergy that can enhance human rights investigations worldwide.

c. Can it do so without being distracted or over-extended from its traditional law enforcement and counter-terrorism responsibilities?

Response:

The FBI does not view its responsibilities regarding human rights as a distraction. A full-time cadre of dedicated personnel with experience in both traditional law enforcement and counterterrorism are assigned to the Human Rights Program. The focus of the work conducted by the GWCP includes the Balkans, Horn of Africa, and other conflict zones affected by international terrorism. As conflict areas emerge worldwide, the FBI will review these situations to assess U.S. security interests and potential Federal jurisdiction and then appropriately collect intelligence to identify potential violations.

5. What is the most common human rights offense you see from perpetrators seeking (or enjoying) safe haven in the United States?

Response:

The response to this inquiry depends in part on the meaning of “human rights offense.” If the question pertains to which of the Federal criminal violations listed in response to Question 4a we see most often, the most common human rights offense the FBI has seen is violation of the torture statute, 18 U.S.C. §

2340A. Many of the perpetrators associated with these violations originate from South America, the Balkans, and Africa. The FBI has vigorously investigated these cases, leveraging the expertise of the FBI's extraterritorial squads and Legal Attachés. If, instead, the question pertains to which of the offenses listed in Question 4a permit the perpetrator to be present in the United States without becoming subject to U.S. jurisdiction based solely on that U.S. presence, the only listed offenses in which the offender's presence does not confer jurisdiction are war crimes under 18 U.S.C. § 2441.

6. What is the biggest challenge you face in trying to fulfill your human rights enforcement responsibilities?

Response:

Human rights cases typically involve piecing together fragmentary information, interviewing foreign witnesses in conflict zones who fear for their lives, collecting evidence in foreign countries that exercise varying levels of care in evidence collection, accommodating language barriers, and working with governments whose political systems are vulnerable to corruption. Consequently, from an investigative perspective, the greatest challenge is posed by the fact that these complex and lengthy investigations require sustained, productive collaboration with foreign counterparts and predictable and consistent resourcing. While these investigative challenges are the primary impediments to successful prosecution, we are also challenged, from a legal standpoint, by the fact that some offenses often characterized by the public and by international organizations as “human rights violations,” such as war crimes, do not permit the U.S. to exercise criminal jurisdiction based solely upon the offender's presence in the United States.

7. Regarding enforcement of human rights laws, what is your biggest frustration/hindrane to coordinating with other agencies?

Response:

The FBI has not experienced any impediments to our coordination with other agencies. The FBI's working relationships with its interagency partners remain strong and continue to grow. The GWCP attributes this interagency synergy to teamwork and to the dedication of the investigators, analysts, and attorneys assigned to the FBI's Human Rights Program.

8. Is there any evidence that any human rights violators seeking or enjoying safe haven in the United States have had connections to international terrorism?

Response:

The GWCP has not identified human rights violators with known or overt connections to international terrorism who are seeking or enjoying safe haven in the United States. By the very nature of some of the protracted conflicts in the world, such as in the Democratic Republic of the Congo, Horn of Africa, Balkans, and Sudan, socio-economic and political factors are the impetus for acts of terrorism. The escalation of violence increases the likelihood of human rights abuses, including torture and genocide.

9. To the extent that we (the U.S. Government) are not doing all we can to keep human rights violators out of the United States, is the biggest problem that we are not adequately enforcing laws already on the books, or that we do not have the legal tools needed to do the job well?

Response:

The most important key to keeping human rights violators out of the United States is enhancing the USG's sharing of information with interagency partners to prevent perpetrators from entering the country. The abuse of U.S. asylum laws and the use of fraudulent documents have enabled human rights perpetrators to cross U.S. borders. For example, some perpetrators have used victim populations as a camouflage to cover their illegal entry into the United States. Perpetrators of offenses that do not confer U.S. criminal jurisdiction based solely on the offender's presence in the U.S., such as war crimes, may have particular incentive to attempt these fraudulent entries into the United States.