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TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS FOR FISCAL YEAR 1998

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE

COMMITTEE ON APPROPRIATIONS

UNITED STATES SENATE

ONE HUNDRED FIFTH CONGRESS

FIRST SESSION

ON

H.R. 2378/S. 1023

AN ACT MAKING APPROPRIATIONS FOR THE TREASURY DEPARTMENT, THE UNITED STATES POSTAL SERVICE, THE EXECUTIVE OFFICE OF THE PRESIDENT, AND CERTAIN INDEPENDENT AGENCIES FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 1998, AND FOR OTHER PURPOSES

Assassination Records Review Board
Department of the Treasury
Executive Office of the President
Federal Election Commission
Federal Labor Relations Authority
General Accounting Office
General Services Administration
Merit Systems Protection Board
National Archives and Records Administration
National Commission on Restructuring the Internal Revenue Service
Nondepartmental witnesses
Office of Government Ethics
Office of Personnel Management
U.S. Postal Service
U.S. Tax Court

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CONTENTS

TUESDAY, APRIL 15, 1997

Page

Congressional witness 1
Department of the Treasury 13
General Accounting Office 41
Department of the Treasury: Internal Revenue Service 51
Material submitted subsequent to conclusion of hearing 77

THURSDAY, APRIL 17, 1997

Department of the Treasury 81
- Bureau of Alcohol, Tobacco and Firearms 91
- U.S. Customs Service 108
- Federal Law Enforcement Training Center 118
- Financial Crimes Enforcement Network 132
- U.S. Secret Service 144

Department of the Treasury 181

WEDNESDAY, MAY 14, 1997

Executive Office of the President: Office of National Drug Control Policy 315

THURSDAY, JUNE 19, 1997

National Commission on Restructuring the Internal Revenue Service 399
General Accounting Office 415
Department of the Treasury: Internal Revenue Service 437

MATERIAL SUBMITTED BY DEPARTMENTAL AND INDEPENDENT AGENCIES NOT APPEARING FOR FORMAL HEARINGS

Department of the Treasury:
- Bureau of the Public Debt 543
- Financial Management Service 545
- Office of the Secretary 548

Executive Office of the President: Office of Administration 560
Independent agencies:
- Assassination Records Review Board 570
- Federal Election Commission 578
- Federal Labor Relations Authority 589
- General Services Administration 599
- Merit Systems Protection Board 615
- National Archives and Records Administration 619
- Office of Government Ethics 627
- Office of Personnel Management 628
- U.S. Postal Service 633
- U.S. Tax Court 636

Nondepartmental witnesses 639

TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS FOR FISCAL YEAR 1998

TUESDAY, APRIL 15, 1997

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

The subcommittee met at 10:17 a.m., in room SD–138, Dirksen Senate Office Building, Hon. Ben Nighthorse Campbell (chairman) presiding.

Present: Senators Campbell, Shelby, Faircloth, and Kohl.

Also present: Senator Glenn.

PANEL 1

CONGRESSIONAL WITNESS

STATEMENT OF HON. JOHN GLENN, U.S. SENATOR FROM OHIO

OPENING REMARKS OF SENATOR CAMPBELL

Senator CAMPBELL. The Subcommittee on Treasury and General Government will be in order. I want to apologize to all of the witnesses for having to delay the hearing this morning. We scheduled this hearing before we realized there were going to be votes this morning. I guess this goes to prove to you that we are in our usual confused state. I know some of you had other appointments, so I really apologize for inconveniencing you.

This morning the subcommittee is here to discuss an issue of personal interest to most of the members; that is, the Internal Revenue Service's employee misuse of taxpayers' files. Abuse by employees in the IRS has been a concern of many Members of Congress for many years. Here are some of the examples of letters that I have received. Some of our constituents have written very vehemently about the problems they have had with the IRS.

One constituent from Longmont, CO, thought his problems with the IRS had been resolved when he followed the instructions of the U.S. Attorney before they moved to Colorado from Massachusetts. This constituent says—I will just read an excerpt from each of these letters. We have just recently moved back to Colorado and the Internal Revenue Service in Worcester, MA, will not release our file back to the Denver office unless we agree to sign a Form 300 to allow this problem to be investigated 10 more years.

Another constituent from Lakewood, CO, has a story of an abusive IRS employee in an attempt to get answers by the phone. Here is her account of what happened. This person talked in a raised voice during the whole conversation, obviously meant to intimidate

me. He hammered and hammered about two missed payments. I tried to explain that I acknowledged this and previously corresponded about this and I needed clarification on the issues that concerned me. I was told, listen, do not argue with me. Be quiet or I will hang up. He asked me what my letter said and I read it to him. His reply was, well, then it tells you what to do, does it not?

By now my frustration had turned to tears. I said, I am making an effort. I need to know how and when so that I can make the necessary arrangements. There is no need to get nasty with me. I hoped he was happy that I was this upset. He said exactly, I do not care if you cry or you do not cry. You do not make my day. By now I had had enough. I asked for confirmation of his name and he told me, Mr. Christenson, like I told you 5 minutes ago. You do not listen very well, do you?

A citizen in Broomfield, CO, found out the hard way not to count on information supplied by the IRS. Every time he was told that the situation had been resolved, the IRS found yet another problem. Here was his bottom line.

I have made many business, financial, and personal decisions based on my information received from the IRS. I have ruined my credit rating, my good name, and if I do not receive a minimum of $5,000 by January 21 I will most probably be forced to file bankruptcy. I do not understand how a Government agency can mislead and deceive the people of this country. They are not accountable to anyone. You, as an elected official, should be concerned and understand that these are some of the reasons that the anti-Government are becoming more visible.

A certified public accountant in Fort Collins, CO, has written on behalf of thousands of citizens who were bilked out of millions of dollars by a fraudulent scheme. When it was discovered, most taxpayers wrote off their losses for income tax purposes. But there were hoops created by the IRS. This gentleman says in part, the IRS moved in, changed the returns, but granted 87 percent of the investments as theft loss or capital loss. This was agreeable. But to claim the loss, the taxpayer had to sign an agreement drawn up by the IRS.

The kicker to the agreement was that in any future recovery of the loss, the taxpayers had to report the recovery not at face value, but at an inflated amount based upon a stated factor for each potential year of recovery. The wording of this agreement was very ambiguous. I still interpret it differently from the IRS. I am confident that a majority of the taxpayers signing it did not understand its results. They also signed under coercion. No sign, no loss allowed.

There is more; several other parts in that letter. I will not go into them because we did get started late. But those were a few examples of letters that I have received, and I know many of my colleagues receive the same type of letters. I will be inserting all of these in the record, without objection.

[The letters follow:]

EXCERPTS OF CONSTITUENT CORRESPONDENCE

Some things seem so logical that they are not apparent, but wouldn't it be a good time to do something about the IRS and the present tax system? The tax system is out of control, not understood by anyone, including tax accountants. The billions of dollars spent on the up-dating the computer system was money down the drain.

DENVER, CO.

I have always prided myself on my skill to figure out my own Federal income tax, while many of my friends (engineers, school teachers, retired military officers, and businessmen) have reverted to professionals to accomplish the same * * *. This year I had made some stock & bond transactions which require submission of the "Gains and Losses from Section 1256 Contracts and Straddles, Form 6781." I called the IRS and asked for verification of my entries. The lady said she did not have the form. I said to her "Please get it and help me out." The line went dead for about two minutes and she came back on and said "We don't have Form 6781". I replied "Surely, if you're the IRS you must have the form." She reiterated "Form 6781 is on my list but I can't get one." Then I just laughed and said, "I don't believe this" and then I thanked her for her time.

COLORADO SPRINGS, CO.

When I called the IRS information line to obtain answers to questions, they were not able to answer them with consistency * * *. The tax rules are so complex, that no one, including the IRS, can interpret them. Yet the IRS constantly uses them to penalize and terrorize the American public.

GRAND JUNCTION, CO.

We are average taxpayers. We required five different IRS publications in addition to the instructions accompanying our 1040. High powered mathematicians and accountants must be paid plenty to devise all of the formulas that go with these various publications. For example, Form 4797 takes 18 hours and 53 Minutes to prepare. Form 6252 takes 56 minutes. Form 1040 takes 4 hours and 33 minutes, (just to mention a couple). This information is directly from the IRS. This has gone beyond good sense. The money wasted in the devising, publishing, and distributing these forms and publications would go a long way toward balancing the budget.

GOLDEN, CO.

We just had our taxes done. It is interesting to note that when I first filed an income tax return, in 1956, I was able to do it myself, without any help from anyone. Plus, I had a refund. Now, 41 years later I have to pay someone to do my taxes. Something has really gone wrong with our tax system when the average person has to pay someone to do their taxes. The IRS seems driven towards making everything so confusing as to make it impossible to do your tax return without outside help * * *. I may be wrong, but our tax system seems to be designed to punish you if you are successful in any way.

LAKEWOOD, CO.

I do want to say that I do not know why the IRS does what they do to the middle and lower-middle class of America.

LAKEWOOD, CO.

INAPPROPRIATE BROWSING THROUGH TAXPAYER FILES

Senator CAMPBELL. Obviously, there are many problems and concerns about IRS interaction with U.S. citizens. Today we are going to focus on one of those concerns which was brought to our attention by a recent story in the Washington newspapers about inappropriate browsing through taxpayer files. We have heard allegations of IRS employees accessing the computerized tax records of celebrities, friends, and enemies; most often just for the fun of it.

But I know most of my constituents certainly do not believe that is funny.

This morning we are going to hear first from the ranking member of the Senate Governmental Affairs Committee, Senator John Glenn. Senator Glenn has spent considerable time on the issue of the IRS computer security and we are pleased to have him here this morning.

We will also hear from Treasury Deputy Secretary Larry Summers. We are particularly interested in knowing what leadership has been provided from the Department on these issues.

Next, the General Accounting Office will brief us on their recent report dealing with IRS computer security in general and employee browsing in particular. We will then talk with other representatives of the Department of the Treasury, the IRS Commissioner Margaret Milner Richardson, and the Inspector General Valerie Lau. Hopefully, we will learn what the Treasury Inspector General's office and the IRS itself has done to address these problems.

PREPARED STATEMENT

The president of the National Treasury Employees Union, Robert Tobias, was invited to join us, but unfortunately had to be out of town. Without objection though, he has sent a statement and we will introduce that in the record.

[The statement follows:]

PREPARED STATEMENT OF ROBERT M. TOBIAS, NATIONAL PRESIDENT, NATIONAL TREASURY EMPLOYEES UNION

Mr. Chairman, Ranking Member Kohl, Members of the Subcommittee, on behalf of the 150,000 federal employees, including many at the IRS, represented by the National Treasury Employees Union, thank you for inviting me to testify today on the issue of electronic browsing of tax return information by IRS employees. I deeply regret that a previous commitment does not allow me to be here in person, but I sincerely appreciate the opportunity to submit this statement for the hearing record and would be happy to answer specific questions for the record as well.

Let me state at the outset that NTEU does not condone "browsing," or the unauthorized inspection of taxpayer information by IRS employees or anyone else. We have worked with the IRS to emphasize the seriousness of these offenses to the IRS work force. In a joint Memorandum For All Employees, dated November 16, 1994, (which is included in Appendix II of the April 1997 GAO report on IRS Systems Security) Commissioner Richardson and I wrote: "Safeguarding public confidence in the integrity and competence of the Service is a top priority for all employees. Each of us must take seriously any perceived or real breach in public confidence and trust in our ability to administer tax laws."

The joint memo went on to say: "Our efforts to maintain taxpayer privacy also includes continually improving Service ability to identify any employee who fails to safeguard taxpayer information and, where appropriate, taking disciplinary action, up to and including removal. This effort is not intended to impose an additional burden on conscientious employees in their use of tax systems. It is, however, intended as a concerted effort to maintain a work environment that reflects the highest standard for the protection of sensitive taxpayer information."

I am very distressed that recent information compiled by GAO and IRS indicates that browsing has not been stopped by these efforts. I am particularly disturbed by published reports concerning incidents of browsing by those with truly heinous objectives such as the white supremacist, Mr. Czubinski.

While NTEU is committed to the total eradication of browsing and for that reason will not oppose Senator Glenn's bill, S. 523, to criminalize the unauthorized inspection of tax returns, the Subcommittee should know that my belief is the large majority of browsing is misguided rather than malicious. Curiosity, rather than personal gain seems to be the common motivation. In fact, the IRS report that was the basis of the 1,515 instances of browsing in 1994 and 1995 also states: "It should be noted, however, that many of these cases (about one third) which are detected through reg-

ular IDRS security systems, are situations of accessing one's own account that is generally attributable to trainee error."

I would like to emphasize that I do not mean to try to excuse incidents of browsing by noting that the motivation is for the most part not malicious. I understand the serious impact that browsing has on the public's ability to feel secure that their tax documents are being held in a truly confidential manner and I pledge the cooperation of my union, as I have in the past, in efforts to end any browsing.

As I stated earlier, I do not intend to oppose Senator Glenn's bill, S. 523, but have been working with him and the Treasury Department to clear up some concerns about the adequacy of the language of the bill to clearly identify the distinctions between authorized and unauthorized inspections. IRS employees must inspect tax returns and tax return information on a daily basis and care must be taken to ensure that only willful and intentional actions of unauthorized browsing will be subject to criminal penalties.

I realize that by the time of this hearing the House and Senate bills to make browsing of tax returns a criminal offense will be very close to being on the President's desk. It is not lost on me that the date of this hearing is April 15th, tax filing day. I have been President of the National Treasury Employees Union, which represents IRS employees, for 13 years and associated with the Union for much longer. I recognize that Americans do not enjoy paying their taxes and that many in Congress choose the symbol laden April 15th to highlight their sympathy with their constituents on the issue by acts aimed at reforming the IRS or the tax code. I don't fault anyone for that, but I do hope that symbolism will not obscure the importance of legislating in a prudent and judicious manner, especially when criminal penalties are involved.

In addition to April 15th, this week holds another symbolically important date for federal employees and, I hope, the country. April 19th will mark the second anniversary of the bombing of the Oklahoma City Federal Building, which resulted in 169 deaths, mostly of federal employees who worked in the building. The GAO report on IRS Systems Security that was the subject of a hearing in the Governmental Affairs Committee last week and mentioned in numerous media stories associated with the issue of browsing also found serious weaknesses in physical security for IRS work sites. In fact, the report states that "primary weaknesses were in the areas of physical and logical security." (p.5, emphasis added.) The physical security weaknesses were so serious that GAO refused to publish them for public review for fear of further endangering IRS employees and the information kept at their work sites. Yet, no hearings, closed to the public or otherwise, have been called. No bills have been introduced. No symbolically important dates have been targeted for action that would highlight Congressional concern or commitment to corrective legislation.

My hope, Mr. Chairman, is that you and other Members of Congress who have jurisdiction over matters dealing with the IRS will request briefings from GAO on the physical security threats they found in doing their recent report and address those threats, which pose life threatening consequences, with the same zeal and speed that the issue of unauthorized glancing at tax returns is being addressed. I would suggest April 19th as an appropriate day to undertake corrective action.

I am attaching to my testimony an article that appeared in the New York Post recently outlining a plan to have retail shops on the first floor of a New York City federal building that houses IRS and FBI offices as an example of the kind of serious security problems that need to be addressed at IRS facilities.

Before concluding, Mr. Chairman, I would like to return to the issue of browsing by IRS employees. Because I have honestly worked hard to make it clear to the members of my union that browsing was totally unacceptable, I've been asking myself in light of the recent disclosures that it has not abated, why? Again, please do not take my words as offering excuses, but as providing you with a sense of the culture IRS workers operate in that could help explain why seemingly clear directives do not have the impact they should.

As any parent knows, consistency and fairness are the cornerstones to good behavior. Rules are more likely to be followed when expectations are consistently put forth and the measures of meeting expectations fairly applied. Unfortunately, consistency and fairness do not reflect the current culture at IRS. And some of that is Congress' fault.

Budget cuts and policy changes swing back and forth on a yearly pendulum. In debates on Taxpayer Bill of Rights and other similar legislation, IRS employees hear sentiments that would indicate that their most important priority is to ensure that taxpayers (or in many instances, tax-owers) are treated with the utmost in tact and politeness, regardless of the fact that they may have thrown a brick through your car window when you tried to get them to pay what they owe. Just weeks later,

in Congressional debates IRS workers can hear loud support for contracting out tax collection to the private sector because the IRS employees aren't aggressive enough (and can't legally be motivated by quotas or monetary incentives) at collecting the revenue that is owed to the Treasury.

One of my personal favorite Congressional flip-flops was on the administration of the Earned Income Tax Credit. First, IRS was called to Congress to explain why there was so much fraud being perpetrated under the program. They were beaten up pretty badly and instituted a good fraud detection system for the program. Then they were called to the Hill to explain why EITC refunds were being delayed in order to ensure that no fraud was committed.

As I'm sure you know, IRS employees have also recently been facing downsizing, furloughs and Reductions in Force. I cannot overstate how much these proposals undermine employees' morale, especially when these actions are accurately perceived as being not thoroughly analyzed or fairly implemented, as in the case of the IRS Field RIF.

As I said at the outset of this section, I do not mention these things to provide excuses for browsing tax returns, but to illustrate that the current real or perceived inconsistencies and unfairnesses of the current IRS culture make it difficult to convince IRS employees that the important "must follow" rules of today (such as those against browsing) will be the same tomorrow, because they often aren't.

Thank you again for inviting me to testify today. I would be happy to provide answers for the record to any questions you might have.

[From the New York Post, Mar. 7, 1997]

G-MEN FEAR WHOLESALE SLAUGHTER IN NEW HQ

(By Niles Lathem)

Jittery FBI and IRS agents say a government plan to let trendy shops rent space in their high-security downtown Manhattan building will make them vulnerable to terrorist attack.

The General Services Administration, which manages federal buildings is going ahead with a plan to lease prime first-floor space in the federal building at 290 Broadway to private vendors despite the security concerns, The Post has learned.

The rentals could make millions of dollars for Uncle Sam.

Agents fear that the shops, uncontrolled by federal security, would offer terrorists and madmen an easy way into their building.

The building is considered a prime target for terrorists because both the FBI and the IRS do their business there.

The controversy comes just as security at all federal buildings, military installations and airports is being boosted, fueled by tensions in the Middle East, the trial of accused Oklahoma City bomber Timothy McVeigh and the approach of April 19—the anniversary of the bombing and the fiery ending of the Waco, Texas, siege.

Security is high at 290 Broadway.

All visitors are carefully screened, and extra measures have been taken to protect the building's perimeter.

Sidewalk traffic is monitored. No unauthorized cars are allowed to park at the curb. Delivery trucks are not allowed to double-park.

But, according to people who work inside, the security measures could be neutralized if the GSA goes ahead with its plan to build a trendy shopping area downstairs.

"We believe the potential for placing a bomb directly outside or inside these stores could be greatly increased as a result of these commercial rentals," managers of the IRS, the FBI and the Environmental Protection Agency said in a letter to the GSA.

"Since public access to these areas would be uncontrolled and delivery and repair work would not be supervised by the building guard service, security as a whole would be severely compromised."

But the GSA is undeterred.

"The development of retail space was part of the terms of our acquisition of land from New York City in 1990," GSA spokeswoman Rene Misscione told The Post.

"We are aware of the security concerns and these are matters we take seriously. These concerns are being taken into consideration in the negotiations," she added.

The FBI, which conducts its anti-terrorism and organized-crime investigations out of the building, has plenty of enemies. The IRS also is a potential terrorist target.

The IRS wants to use the storefronts for taxpayer service—a move that would increase security by keeping the general public out of the main section of the building.

Now people coming in for audits or picking up forms have to go through a metal detector and up to the fifth floor.

But the GSA has said the IRS would have to pay a lot more rent as well as foot the bill for renovating the space. The IRS has been unable to afford it.

STATEMENT OF SENATOR KOHL

Senator CAMPBELL. I thank all of our witnesses for being patient this morning. With that, Senator Kohl, do you have a statement?

Senator KOHL. I thank you, Senator Campbell. I also would like to thank Senator Glenn for taking the time to testify before us today. His presence here and his hard work on this issue are clear demonstrations that IRS management and mismanagement are of deep concern to Democrats and Republicans alike.

I will keep my opening statement brief today as I have a very busy morning ahead. I have to finish up on my taxes. [Laughter.]

Senator CAMPBELL. Good luck.

Senator KOHL. In fact, I see that Commissioner Richardson is on the last panel of the morning. Perhaps if I work hard enough I could hand in my returns to her at the end of the hearing.

On a more serious note, today our hearing will address employee misuse of taxpayer files, or what the papers have termed snooping. With all the recent press coverage of IRS problems with their computer systems and their general management, some might think a few IRS employees snickering over Elvis Presley's returns is not a serious issue. I could not disagree more.

Eighty-three percent of all income taxes collected by the IRS—that would be about $760 billion a year—are sent in voluntarily. That is amazing. That means that our current tax collection system relies heavily on Americans willingness to follow tax laws and pay what they owe. These recently reported incidents of snooping by IRS employees, and the IRS' inconsistent treatment of employees caught snooping, puts in jeopardy this incredibly high compliance rate.

Would you want to buy a house if you knew a peeping Tom lived next door? Do you want to send in a record of your most personal financial transactions if you think IRS employees might with impunity be browsing through your tax returns?

Concerns for the privacy for citizens who willingly provide information to Government agencies led to the enactment last year of the Economic Espionage Act, a bill which I authored. That legislation includes a provision making it a crime to look at information stored in any Federal Government computer without proper authorization. Senator Glenn's legislation, of which I am a cosponsor, also makes a crime the unauthorized inspection of any tax return, be it on paper or the computer. These are the first steps we need to take to restore taxpayers' faith in the IRS.

Another step is this morning's hearing. Today I hope our witnesses will tell us how these incidents of unpunished snooping occurred and what is being done to keep them from happening again.

I look forward to discussing this with our witnesses this morning, and I hope that we can leave today with a renewed commitment for the IRS, Treasury, and Congress to complete the task started in 1992, a zero tolerance policy for snooping.

Senator CAMPBELL. Senator Shelby.

STATEMENT OF SENATOR SHELBY

Senator SHELBY. Thank you, Mr. Chairman. Mr. Chairman, I have a short statement. I appreciate first, Mr. Chairman, you holding this hearing today on such an important task as the security of the American people's tax and financial information. But, Mr. Chairman, in my view this hearing today is about a lot more than ensuring the integrity of the American people's financial records. It goes right to the issue of whether or not the American people can trust their Government.

It has been said many times before that the power to tax is one of the most ominous powers given to the Government. If there is any area in which the American people need to be able to trust their Government, it is in the area of tax collection.

The recent revelation of IRS' employees snooping through people's files without authorization only undermines that trust. This abuse of power, Mr. Chairman, raises a couple of serious concerns, and I hope that today's panel can help address them.

First, it does not seem to me that the IRS has any idea how bad this problem is. If I was in charge at the IRS and this problem was brought to my attention, it would seem to me that the first thing I would want to do is to get some sense of how widespread the problem is, Mr. Chairman. There would need to be some way to accurately measure how many violations have occurred. I am not aware of any such procedure in place at the IRS, but I hope there will be.

Another concern, Mr. Chairman, is that the IRS has been aware of the problem of file snooping for several years now, and their attempts to address it have not only been ineffective but have appeared to me to reflect a lack of commitment to stamping out this problem. The lengthy delay in responding to this problem, the gaping holes left in the IRS security, and the seemingly weak disciplinary action are all prime examples.

I look forward to hearing our witnesses today.

Senator CAMPBELL. With that, Senator Glenn, if you would like to proceed. Welcome to the committee.

STATEMENT OF SENATOR GLENN

Senator GLENN. Thank you very much, Mr. Chairman. I appreciate being here with you today as the subcommittee takes a look at taxpayer privacy and IRS records. I want to thank you, Mr. Chairman, for convening this important hearing, and also want to thank the ranking member, Senator Kohl, for his efforts. I remember when the Senator from Wisconsin was a key member of the Governmental Affairs Committee, before he gave up all the glitter and glamour of that committee for the humdrum work of the Appropriations Committee. Senator Kohl did do a lot of work on privacy matters and Government information and public access, some of the things that you are addressing here today. We do miss him on our committee.

By the end of today, hardworking citizens across this land will have voluntarily shared their most personal and sensitive financial information with their Government. All Americans should have unbridled faith that their tax returns will remain absolutely confiden-

tial and will be zealously safeguarded. That is the hallmark of our taxpaying system. If this trust is breached, it shakes the whole foundation of our very Government. No wonder we have some of the cynical attitude that is too often exhibited today.

That is why I am so hopeful that today Congress will finally pass legislation I had first introduced a couple of years ago to outlaw what I have come to term as computer voyeurism. That is, the unauthorized inspection of your own tax information by those not entitled to see it. Some of our interest in this goes back several years.

In 1993 and 1994, as chairman of the Governmental Affairs Committee, I held hearings which first exposed this insidious practice. We had come across this problem almost by happenstance, by a reference—it was a footnote, as a matter of fact, to an internal IRS report contained in one of the first chief financial officer audits that are required to be done and are performed by the General Accounting Office on the IRS.

We conducted a couple of hearings to further investigate this matter. And it turned out that between 1989 and 1994, more than 1,300 IRS employees had been investigated on suspicion of snooping through private taxpayer files, confidential information that is supposed to be for official use only.

Now, Mr. Chairman, at least 99 percent of the employees over there are very hardworking, honest people doing the best job they know how. But my hearings revealed that a few IRS employees had been browsing through the financial records of family members, exspouses, coworkers, neighbors, friends, and others they saw as their enemies. Still others had submitted fraudulent tax returns and then used their special access to monitor how IRS was processing those returns. Other workers had used their computers to issue fraudulent refunds to family and friends. And at least one employee was reported to have altered some 200 accounts and received kickbacks from those inflated refund checks.

All American taxpayers were outraged to know that the most personal information they voluntarily and in good faith provide to the Government could, in effect, become an open book for others' private entertainment.

Even worse was the pitifully low numbers fired for committing these awful actions. It turned out that no criminal penalties existed for many kinds of these browsing offenses. We all know they are wrong, but there was no law that really addressed them. There was a legal loophole that allowed you to get off the hook if you did not disclose tax information to others or altered those returns. That is what we have been working to correct through legislation.

At our hearings, the Commissioner of Internal Revenue pledged to implement a zero tolerance policy, and she has undertaken several initiatives. I want to give her credit for acknowledging the problem, trying to address it, and working with me on this legislation. They have over 100,000—I think it is 106,000 employees at IRS, Mr. Chairman. About 50,000, I understand, work directly on taxpayer returns all through the year. We need to tighten up on what those employees can do.

But it is very difficult to set up a completely foolproof system. And it is expensive to do that, also. So some of the problem with modernizing the system over there, we have to acknowledge, comes

back to us here in the Congress, I am sorry to say. The Commissioner has said that she favors this particular legislation on tightening up and eliminating the loophole that I described briefly a moment ago.

To evaluate the effectiveness of actions that she had taken to try and reach a zero tolerance, there is a system called EARL. It is a new computer detection system. So I asked the GAO and the inspector general at the Department of the Treasury to examine the results. That was the report that was released last week that was widely reported in the news.

The findings of GAO's report are very disturbing. Just as important, their conclusions are affirmed by the IRS in a comprehensive internal report of their own compiled last fall. They are also buttressed to some extent by the Treasury inspector general's review. The report is restricted to limited official use only. It is on IRS computer security controls so we could not release it.

But the bottom line is, although the IRS' efforts in this area are well-intentioned, unfortunately they have come a little late and fall short of the commitment and determination sorely needed to tackle this problem head on. GAO found that serious weaknesses in IRS' information security makes taxpayer data vulnerable to unauthorized use, to modification, and even to destruction.

The IRS also has no effective means for measuring the extent of the browsing problem, the damage being done by browsing, or the progress being made to deter browsing. As I said, it is very difficult, and it is also expensive to set up what would be a foolproof system.

Finally, and this is something I am having GAO look at further, we do not know to what extent detection and control systems exist in other IRS data bases besides IDRS, the primary taxpayers' account system examined here. I was also struck by the candor in the IRS' own internal report on the EARL detection system. That report found its progress painfully slow, to use their own words, and quite distressing to me, indicated that some employees felt IRS management did not aggressively pursue browsing violations.

Moreover, some IRS workers, when confronted about their snooping activities, saw nothing wrong and believed it would be, to use their words, of no consequence to them even if they were caught. Obviously, we have to fix that. When you have over 1,515 investigations of browsing since the hearings and only 23 workers fired—I think the figures are another 480-some counseled, 392 got some sort of disciplinary punishment, that just shows in our zero tolerance policy, we have a long ways to go before we reach it.

So, Mr. Chairman, I appreciate your letting me appear this morning and add my remarks to your deliberations here. We have legislation that Senator Coverdell and I are working on together that I hope reaches the floor of the Senate either today or tomorrow that will address this loophole whereby people taken to court and found guilty were, on appeal, exonerated because the law had said they could be punished only if they passed the information on to somebody else. That snooping for their own voyeurism or whatever was not really against the fine print of the law. So that is what we are hoping to close today or tomorrow with legislation on the floor.

I would be glad to try to answer any questions you might have.

Senator CAMPBELL. Thank you. Thank you for your leadership on this issue, Senator Glenn.

You mentioned the person that had altered 200 accounts and got kickbacks. There was nothing in his actions that were not already against an existing statute?

Senator GLENN. Yes; I think they were fired and that person was—I do not know what the penalty was for that, but he was prosecuted.

Senator CAMPBELL. Thank you. Senator Kohl.

Senator KOHL. I have no questions, Mr. Chairman.

Senator CAMPBELL. Senator Shelby.

Senator SHELBY. No questions.

PREPARED STATEMENT

Senator CAMPBELL. Thank you for your appearance, Senator Glenn, we do appreciate it. We will insert your complete statement in the record.

Senator GLENN. Thank you, Mr. Chairman.

[The statement follows:]

PREPARED STATEMENT OF SENATOR GLENN

I appreciate being here with you today as the Subcommittee takes a look at Taxpayer Privacy and IRS Records.

I want to thank the Chairman, Senator Campbell, for convening this important hearing. I also want to thank the Ranking Member, Senator Kohl for his efforts.

I remember when the Senator from Wisconsin was a key member of the Governmental Affairs Committee—before he gave up all the glitter and glamour of our panel for the "humdrum" of the Appropriations Committee. Senator Kohl did a lot of work on privacy matters, government information, and public access. We miss him.

By the end of today, hard-working citizens across the land will have voluntarily shared their most personal and sensitive financial information with their government.

All Americans should have unbridled faith that their tax returns will remain absolutely confidential and zealously safeguarded. That is the hallmark of our taxpaying system. If this trust is breached, it shakes the whole foundation of our very government.

That is why I am so hopeful that today Congress will finally pass legislation I had first introduced a couple of years ago to outlaw what I have come to term as "computer voyeurism". That is the unauthorized inspection of your own tax information by those not entitled to see it.

In 1993 and 1994, as Chairman of the Governmental Affairs Committee, I held hearings which first exposed this insidious practice. We had come across this problem almost by happenstance—by a reference to an internal IRS report contained in one of the first Chief Financial Officer (CFO) audits performed by the General Accounting Office (GAO) on the IRS.

We conducted a couple of hearings to further investigate this matter. It turned out that between 1989–1994, more than 1,300 IRS employees had been investigated on suspicion of snooping through private taxpayer files—confidential information that is supposed to be for official use only.

My hearings revealed that some IRS employees had been browsing through the financial records of family members, ex-spouses, coworkers, neighbors, friends, and "enemies". Still others had submitted fraudulent tax returns and then used their special access to monitor how IRS was processing those returns. Other workers had used their computers to issue fraudulent refunds to family and friends. At least one employee was reported to have altered some 200 accounts and received kickbacks from those inflated refund checks.

All American taxpayers were outraged that to know that the most personal information they voluntarily and in good faith provide to the government could, in effect, become an open book for others' private entertainment.

Even worse was the pitifully low numbers of employees fired for committing these awful actions. It turned out that no criminal penalties existed for many kinds of these browsing offenses. There was a legal loophole that allowed you to get off the hook if you did not disclose tax information to others or altered those returns. That is what I am working to correct through legislation.

At our hearings, the Commissioner of Internal Revenue pledged to implement a "zero tolerance" policy and has undertaken several initiatives. I give her credit for acknowledging this problem, trying to address it, and working with me on this legislation.

To evaluate the effectiveness of these actions, particularly "EARL"—its new computer detection system—I asked GAO and the Inspector General at the Department of the Treasury to examine the results.

The findings of GAO's report are disturbing. Just as important, their conclusions are affirmed by the IRS in a comprehensive internal report of their own compiled last fall. They are also buttressed to some extent by the Treasury IG's review (the report is restricted to "Limited Official Use") on IRS computer security controls.

The bottom line is although the IRS efforts in this area are well-intentioned, unfortunately, they have come too late and fall far short of the commitment and determination sorely needed to tackle this problem head-on.

GAO found that serious weaknesses in IRS' information security makes taxpayer data vulnerable to unauthorized use, modification, and destruction. The IRS also has no effective means for measuring the extent of the browsing problem, the damage being done by browsing, or the progress being made to deter browsing. Finally, and this is something I'm having GAO look at further, we don't know to what extent detection and control systems exist in other IRS databases, besides "IDRS", the primary taxpayers' account system examined here.

I was also struck by the candor in the IRS' own internal report on the "EARL" detection system. That report found its progress "painfully slow", and, quite distressing to me, indicated that some employees felt IRS management did not "aggressively pursue" browsing violations. Moreover, some IRS workers, when confronted about their snooping activities, saw nothing wrong, and believed it would be of "no consequence" to them even if they were caught.

We have to fix that. When you have over 1,500 investigations of browsing since my hearings, and only 23 workers fired, something just ain't right. That doesn't sound like "zero tolerance" to me.

Again, I appreciate your interest in this important issue and want to offer any help I can.

Thank you.

PANEL 2

DEPARTMENT OF THE TREASURY

STATEMENT OF LAWRENCE SUMMERS, DEPUTY SECRETARY

INTRODUCTION OF WITNESS

Senator CAMPBELL. We will now take the second panel which will be the Honorable Larry Summers, Deputy Secretary of the U.S. Department of the Treasury. Larry, thank you for appearing. I understand you are on a tight schedule, Larry, so if you want to abbreviate your comments, without objection, we will take all of your written testimony and put that in the record.

ORAL STATEMENT OF MR. SUMMERS

Mr. SUMMERS. Thank you very much, Mr. Chairman. I am glad to be here. We have always had a good working relationship with this committee and Secretary Rubin and I look forward to working with you as our new chairman and ranking member.

We at Treasury are very much aware of the critical management problems at the IRS, the problems associated with TSM which are by no means behind us, and the seriousness of the recent incidents involving browsing.

Before I get into those subjects I want to acknowledge the fact that today is April 15. That it brings to a close what is an important annual ritual in America, the payment of taxes. A task that none of us enjoy but that the vast, vast majority of us carry through with in an honest and complete way.

And I want to thank 100,000 honest and dedicated IRS employees who make this possible. To date we have processed 76 million returns. Versus last year, I am pleased to report that electronic filed returns are up 25 percent, that 36 percent more taxpayers have been serviced over the telephone than last year, and the accuracy rate has increased from 90 to 93 percent. The IRS web site has received over 95 million hits, and I was pleased that an AP poll released last week reported that 7 out of 10 taxpayers give the IRS a positive rating on its ability to handle returns and inquiries.

We need to build on that record. Let me be clear. No one can be satisfied with where we are, but I think it is worth on this special day acknowledging a successful filing season.

BROWSING

Let me now turn to the question of browsing. The Treasury Department's policy is very simple: willful, unauthorized access to taxpayers' records will not be tolerated. Those who violate the rules will be punished swiftly, surely, and with appropriate severity. Total respect for the privacy of information provided by taxpayers is integral to high quality customer service and voluntary compli-

ance; the foundation of our system of taxation. That is why, in 1993 in response to incidents of violation of that policy the IRS announced what was intended to represent an aggressive policy to combat unauthorized access to taxpayer records.

It is clear, however, that this policy was not as effectively designed or implemented as it should have been. So dealing with this problem calls for additional action on the legal front, the managerial front, and the technical front.

On the legal front, unauthorized access or inspection is not now in itself a criminal offense. It should be. That is why we at Treasury, as well as Commissioner Richardson, believe that the antibrowsing legislation introduced by Senator Glenn and a companion bill introduced by Congressman Archer in the House need to be enacted as soon as possible. We have worked with Senator Glenn and his colleagues to draft this legislation and have promoted it from the beginning.

On the managerial front, we agree with the Congress that appropriate penalties for IRS employees engaged in unauthorized access must be applied uniformly, firmly, and fairly if the IRS is to convince its employees and the public that unauthorized access to taxpayer information will not be tolerated.

But penalties are only a deterrent. On the technical front, the IRS needs to strengthen its computer systems to prevent and detect unauthorized access. Dramatically improved security mechanisms will be an integral part of the architecture for modernized tax systems which the Congress will receive in May. Secretary Rubin and I have ordered the IRS to report in 1 month on what it proposes to do both managerially and technically to better address this problem.

We have further asked the IRS to identify in its report what best practices may be learned from other enterprises, public and private, which acquire and process very sensitive information such as medical and financial records. As soon as that report is complete we will convene our modernization management board to agree on appropriate action.

Browsing though is by no means the only significant problem that the IRS faces. I would like now to briefly summarize our plan to improve the management and operations of the IRS.

TREASURY PLAN TO IMPROVE THE IRS

Secretary Rubin and I recognized in testimony last year before the Congress that the modernization program, as we put it at the time, was off track. We called for a sharp turn and made clear our determination to bring about change in the way the IRS uses information technology and provides customer service. And there has been some important change.

A new Associate Commissioner for Modernization and Chief Information Officer, Art Gross, has been brought into the IRS. Following his review of technology projects we have canceled or collapsed 26 programs into 9, saving in several cases hundreds of millions of dollars in expenses that otherwise would have played out over time because we judged the projects not to be worthwhile on a go-forward basis.

Second, we will be submitting a draft request for proposal for a tax systems modernization prime contractor to Congress and to industry on May 15, 10 weeks ahead of the congressionally mandated date. On May 15 of this year we will submit to Congress an architectural blueprint which will clearly describe what modernization would and would not include and how the pieces fit coherently together.

Steps such as these are only a beginning. Everyone in the process recognizes that these problems with the IRS have developed over decades and will not be solved overnight, or even over a couple of filing seasons.

As we go forward, it is important that we have a framework in which the IRS has the best prospect of carrying out these very difficult tasks. Toward that end, we have proposed and have discussed with members of the IRS commission and with a number of congressional committees five steps that we believe are important if the IRS is to work more effectively.

First, we must strengthen and make more proactive our oversight of the IRS. We will consolidate the success of the modernization management board by making it permanent and extending its mandate to cover the broad range of strategic issues facing the IRS. In many ways, within Government this entity functions like the board of directors of a troubled corporation with outsiders from the agency meeting monthly to review and approve, and in some cases disapprove, strategic plans that are proposed, and to ensure the top executives of the IRS are held accountable for performance.

We will also establish a blue ribbon advisory committee to bring private sector expertise to bear.

Second, we must work and will work to enhance and strengthen the IRS' ability to manage its operations working with Congress and the union to improve management flexibility in crucial areas such as personnel and procurement. In return, employees of the IRS, as in any well-managed business, will be held accountable for results.

Third, we will work with Congress to help the IRS get the stable and predictable funding it needs to operate more effectively, particularly where capital investments and projects with measurable financial paybacks are concerned.

Fourth, we will work to simplify our 9,451-page tax code. Yesterday the administration introduced a revenue neutral package of more than 60 simplification measures and we will continue to build on this base. These measures will save individuals and businesses literally millions of hours that are now spent in filing tax forms.

Fifth, leadership is crucial to performance. Commissioner Richardson has guided the IRS through some difficult times. As we move forward we are committed to appointing a new commissioner whose past experience, different from that of most previous commissioners, is with the challenges of organizational change, customer service, and improved information technology management, because we see these as the crucial challenges that the IRS now faces.

In conclusion, Justice Holmes said that taxes are what we pay for civilization. It is essential that our Nation have the kind of tax collection system that the American people deserve. We at the

Treasury are determined to work closely with you toward that objective.

I would be happy to answer any questions that you may have.

PREPARED STATEMENT

Senator CAMPBELL. Thank you, Mr. Summers. We have your complete statement and it will be made part of the record.

[The statement follows:]

PREPARED STATEMENT OF DEPUTY SECRETARY LAWRENCE SUMMERS

INTRODUCTION

I am pleased to be here today to talk with you about Treasury's plan to implement lasting solutions to difficulties the IRS has encountered and, more specifically, the issue of unauthorized access by IRS employees to tax returns and taxpayer records. I understand that this is the first of a series of hearings your Committee will be holding over the next two months on Treasury operations as you begin your review of the Department's budget requirements for the next fiscal year. This Committee has been very supportive of the key role Treasury plays in Government as tax administrator, revenue collector, law enforcer, financial manager and regulator. Secretary Rubin and I look forward to working with you and members of your Committee throughout the coming year.

This is the day that Americans fulfill their annual obligation to pay their taxes. As such, it is an appropriate moment to recall both the purpose of taxation as well as what Americans ought to demand of their system of tax collection. Taxes funds our armed forces, our children's education, and our parents' health care, and they finance advances in science and technology that benefit us all. They play a critical role in sustaining our society.

However, recent announcements about problems in modernizing the computer systems of the IRS have focused attention on its shortfalls and provoked an important debate about how best to improve it. I would like to begin this morning by addressing the specific topic of today's session, the issue of unauthorized access by IRS employees of tax returns and taxpayer information. I want to thank the Congress and others for their continued focus on this matter, which is helping to ensure that it gets the attention it deserves. In turn, I will also discuss specific elements of the Administration's five-point plan for reform of the IRS.

UNAUTHORIZED ACCESS OF TAX RETURNS

From the Department's perspective, total respect for the privacy of information provided by taxpayers is integral to high quality service and voluntary compliance—the foundation of our system of taxation. That is why, in 1995, in response to incidents of violation of that privacy, the IRS announced what was intended to represent an aggressive policy to combat unauthorized access to taxpayer records. Two years later, however, it is clear that this policy was not effectively designed or implemented and penalties are neither sufficiently consistent nor severe to put an end to unauthorized access.

A key problem is that unauthorized access or inspection is not itself a criminal offense. In our view, it should be. We, at Treasury, as well as Commissioner Richardson, believe that the anti-browsing legislation introduced by Senator Glenn, and a companion bill introduced by Congressman Archer in the House, developed with our active participation from the beginning of the process, a bill we worked together to draft, should be enacted as soon as possible.

As the Congress has recognized, appropriate penalties for IRS employees engaged in unauthorized access must be swift and sure if the IRS is to convince its employees and the public that unauthorized access to taxpayer information will not be tolerated. Unauthorized access represents a fundamental violation of the public's trust in the confidentiality of tax returns and return information.

Significant progress was made on this issue last year when the Economic Espionage Act of 1996 amended the Federal wire fraud statute, to make unauthorized access by computer to information from any department or agency of the United States a separate misdemeanor offense. In view of these provisions, "browsing" a Federal computer is already punishable as a crime.

However, the bills before the House and Senate today would amend the Internal Revenue Code to specifically prohibit the unauthorized access or inspection of tax returns and return information, whether or not the information is relayed to some-

one else, criminalizing activities not punishable under current law. For instance, they would prohibit the unauthorized inspection of non-computerized tax information, such as "hard-copies" of paper returns or return information. They would also prohibit unauthorized inspection of State or local government computers (not covered by the Economic Espionage Act amendments last year) when Federal tax information has been conveyed to them. Finally, even in cases that are already prohibited under current law, the new misdemeanor will provide prosecutors with an additional tool to obtain a plea bargain or to use in cases where they feel that other provisions of the law should not be invoked.

While the new legislation would strengthen our hand in putting an end to unauthorized access, it is important to remember that penalties are only a deterrence. In addition, the IRS needs to strengthen its computer systems to detect and prevent unauthorized access before it occurs. Secretary Rubin and I have ordered the IRS to report within one month on what it proposes to do both managerially and technically to better address this problem. Let us be clear, however, that this problem is not one confronted by the IRS alone. Every organization that depends on complex computer systems faces a similar challenge. Therefore, the Secretary and I have also asked the IRS to identify in its report what best practices might be copied from other enterprises, both public and private, which acquire and process sensitive information, such as medical and financial records. As soon as that report is complete, we will convene a special meeting of the Modernization Management Board to agree on appropriate action.

In short, Mr. Chairman, Our policy is simple: Willful unauthorized access will not be tolerated. Our goal is also simple: We want quick, appropriate and severe penalties for those who violate these rules.

While it is vitally important that Congress pass the legislation I have mentioned, let me share with you some of the administrative steps we have already taken.

Under Treasury's oversight, the IRS has:

—Expanded use of the Electronic Audit Research Log ("EARL") to identify instances of unauthorized access;
—Created an "800" number offering tips about unauthorized inspections;
—Hired new managers in computer security; and
—Put in place disciplinary procedures that include provisions up to and including dismissal, for employees who are found to have violated the privacy policy.

In addition, IRS employees have been provided with:

—Warnings to employees on unauthorized access to taxpayer records when documents are accessed by computer;
—Training on the privacy policy of § 6103;
—Regular refreshers on § 6103; and
—Privacy guidelines which explicitly condemn unauthorized browsing of taxpayer records.

We expect that these actions as well as others enumerated in the GAO report issued last week will exert a strong deterrent effect on employees who might otherwise be tempted to perform unauthorized inspection of taxpayer records.

MANAGEMENT REFORM

To improve our ability to handle this and the other issues facing the IRS, significant changes are needed. I would now like to turn to our plan to improve the management and operation of the IRS.

Over the last year, the Treasury Department has focused intense efforts on improving the IRS. The National Commission on Restructuring the IRS, led by Senator Bob Kerrey and Congressman Rob Portman, has already made a significant contribution to the ongoing discussion. A consensus has emerged among a wide group of stakeholders, from business executives to Members of Congress to leaders of the National Treasury Employees Union. The message is clear: it is time for change.

I believe that in the next year or so we have the opportunity and the obligation to bring about the most far-reaching changes in the way the IRS is managed and in the way it does its business in decades. It will be the task of management at the IRS to manage information technology better and to harness it toward the goal of better customer service. What I would like to provide today is the Treasury Department's view of how to establish a framework within which the IRS can best get its mission accomplished. I use the phrase "get its mission accomplished" deliberately to underscore the fact that the IRS of the future will have to contract out, outsource, partner with the private sector, and rely on outside vendors to a much greater extent than the IRS of the present.

Secretary Rubin and I recognized last year in testimony before the Appropriation Committees that the IRS's modernization program was, as we put it at the time,

off track. We called for a "sharp turn" and made clear our determination to bring about change in the way the IRS uses information technology and provides customer service. And there has been change. Specifically:

—We have appointed a new Chief Information Officer at the IRS, Art Gross. Following his review of technology projects, we canceled or collapsed 26 programs into nine.

—The IRS has increased outsourcing. The percentage of contractors, as opposed to IRS staff, working on tax systems modernization has increased from 40 to 64 percent over the past two years. The number of IRS staff working on tax systems modernization has decreased from 524 to 156. And we expect to pursue a prime contractor for systems modernization and integration and to develop an outsourcing strategy for submissions processing.

—The IRS has made progress in eliminating paper. This year, we estimate that 19.2 million Americans will file electronically by telephone or computer, up from 11.8 million taxpayers in 1995.

—While there is a long way to go, the IRS has made progress in being able to respond to all incoming calls.

—The IRS has improved customer service by beginning to change the internal culture of the IRS. Last summer, President Clinton signed bi-partisan legislation enacting the Second Taxpayer Bill of Rights, which vastly increased our number of taxpayer advocates. After interviewing our head Taxpayer Advocate on NBC's Today Show, Katie Couric proclaimed that Americans have a friend at the IRS.

—We will be submitting a draft Request for Proposal for a Tax Systems Modernization prime contractor to Congress and to industry on May 15, ten weeks ahead of the required due date.

—On May 15 of this year, we will submit to Congress an architectural blueprint which will clearly describe what modernization would and would not include and how the pieces fit coherently together.

Steps such as these are obviously only the beginning. Everyone involved in this process at Treasury, the IRS, Congress, and the union has recognized that the problems at the IRS have developed over decades and will not be solved overnight or even over a couple of filing seasons. Only if we confront problems directly—from protecting taxpayers' privacy to using technology to making sure the phones are answered—will we build an IRS for the 21st century.

As we chart our new course, our focus will center on five critical areas to effect broad change: (1) oversight; (2) flexibility; (3) budgeting; (4) tax simplification; and (5) leadership. Let me address each of these in turn.

First, Treasury has strengthened and made proactive our oversight of the IRS. We will consolidate the success to date of the Modernization Management Board (MMB) by making it permanent and extending its mandate to cover the broad range of strategic issues facing the IRS. We will also establish a Blue Ribbon Advisory Committee to bring private sector expertise to bear on the management of the IRS.

Oversight of the IRS by the Treasury department is the best way to ensure the IRS's accountability to the American people and to coordinate tax collection with tax policy. Through the Treasury, the IRS is able to bring concerns about the difficulty of administering tax changes to senior Administration officials; I raise these concerns frequently in tax policy discussions with policymakers in the White House and throughout the Administration. In addition, the IRS is able to draw upon Treasury resources for critical projects, as demonstrated by our current cooperation on the Year 2000 conversion.

Going forward, first, we have set up a Modernization Management Board comprised of senior officials from Treasury, the IRS, and other parts of the Administration. The Modernization Management Board is directed at overseeing the information technology programs and functions in many ways like a corporate board, approving major strategic decisions and investments.

Second, we will also establish a blue ribbon Advisory Committee, reporting directly to the Secretary of the Treasury, to bring private sector expertise to bear on the management of the IRS. This committee, composed of senior business executives, experts in information technology, small business advocates, tax professionals, and others, will meet regularly to make recommendations on major strategic decisions facing the IRS.

Second, we will enhance and strengthen the IRS's ability to manage its operations, working with Congress and the union to improve management flexibility in personnel and procurement. In return, employees of the IRS, as in any well-managed business, will be held accountable for results. Second, we will enhance and strengthen the IRS's ability to manage its operations. The IRS faces a multitude of restrictions—restrictions that would be unacceptable in the private sector—that hamper its ability to provide efficient service. For example:

—The IRS should be able to attract and retain the highest quality information technology specialists and other professionals.

—The IRS should not face rules that make restructuring the work force needlessly difficult for employees and the employer.

To strengthen the Commissioner's ability to effect change, we at Treasury will work with Congress, the Commission, and the union to improve flexibility: to bring on people with specific skills more quickly, to pay them more competitively, and to give them the training they need. Many of these changes will require legislation, and we expect to propose this legislation to Congress later this year.

In return, if legislation is passed, employees of the IRS, as in any well-managed business, will be held accountable for results.

Let me add that in taking these steps, we are committed to maintaining the independence and freedom of the IRS from political influence.

And a crucial part of any strategy for improving flexibility has to be outsourcing. Just as private industry has found that outsourcing enables an organization to focus on what it does best and to rely on others for what they do better, so government can benefit from outsourcing as well. Inevitably, resources hired from private companies will be more flexible than those that become part of the IRS's overhead. Where it is cost effective, but only where it is cost effective, we will pursue outsourcing strategies vigorously.

Third, we will work with Congress to help the IRS get the stable and predictable funding it needs to operate more effectively. To this end, the fiscal year 1998 budget proposes multi-year investments for technology.

Fourth, we will work to simplify a tax code that covers 9,451 pages. Just yesterday, the Administration proposed a series of simplification proposals as part of our plan to improve IRS operations. These proposals represent a continuation of efforts to provide IRS with a simpler tax code to administer.

There are some who, based on the complexity of the tax code and on the problems at the IRS, argue for extreme measures such as a flat tax. I believe that such proposals would not only unfairly increase the tax burden on the middle class and hamper economic growth, they would not simplify the administration of the tax code.

Fifth, leadership is crucial to performance. Commissioner Richardson has guided the IRS through difficult times and has made progress in many areas. As we move forward, we are committed to appointing a new Commissioner who has experience with the challenges of organizational change, customer service improvement, and information technology management that the IRS faces.

CONCLUSION

This morning I have discussed some of the specific steps we are taking and must take to put an end to unauthorized access to taxpayer information. In turn, I have discussed the broad five point plan that we believe represents the best way to reform the management of the IRS.

Let us be clear about one thing. In any discussion of the performance of the IRS, we must recognize the unswerving professionalism and dedication of the 100,000 loyal IRS employees who are just completing this year's filing season. They are not the problem.

Let us also recognize that while the IRS needs to be more responsive to taxpayers, to use technology more effectively, and to be more efficient, it is likely that for the foreseeable future, the United States will have an income tax that taxes people based on their ability to pay. Given this, it is not possible to eliminate the IRS, and it is vital that we have an IRS that functions effectively. We must all work constructively toward this end. What we must not do is attack the IRS in order to promote other agendas.

While we have further to go, the filing season which is about to end has been our most successful to date. Let me share with you three statistics which I believe demonstrate that IRS performance is on the upswing. To date:

—Electronically-filed returns are up 25 percent over last year, while 35 percent more taxpayers have been served by IRS employees over the telephone;

—The IRS web site has received over 95 million hits this fiscal year, a 162 percent increase; and

—The accuracy rate for tax law questions continues its upward trend from 90 percent to 93 percent.

Reflecting the success of this past filing season, Americans are recognizing that the IRS has improved. A poll by the Associated Press released last week reported that 7 out of 10 taxpayers give the IRS a positive rating on its ability to handle returns and inquiries. I have attached to this statement summary statistics on the current filing season.

In conclusion, we are making progress. But we have a long way to go. As we go forward, we, at Treasury and the IRS, want and need your suggestions and help, and I look forward to working closely with this Committee to set the right course and stay on it. I will now be happy to answer any questions the Committee may have.

IRS CUSTOMER SERVICE ACTIVITY

Activity	1994 [1]	1995 [1]	1996 [1]	1997
Total Paper	54,969	56,987	53,480	49,794
Total ELF	13,173	10,871	13,613	17,079
Total returns (thousands) as of 4/4/97	68,142	67,858	67,093	66,873
1040 Telefile	490	635	2,591	4,072
1040 ELF [2]	12,683	10,236	11,022	13,007
On-line	N/A	N/A	122	300
FedState	1,066	1,408	2,902	3,916
1040PC	2,507	1,253	3,871	4,488
1040	27,470	29,154	25,769	25,114
1040A	12,863	14,046	12,639	11,317
1040EZ	12,130	12,534	11,031	8,875
1040OT	N/A	N/A	170	N/A
Direct deposit:				
Volume (thousands)	9,670	6,160	8,980	13,307
Dollars (billions)	$14.5	$8.5	$16.8	$24.2
IRS Internet accesses (fiscal year) as of 3/30/97	N/A	N/A	36,559,735	95,724,828
Toll-free calls as of 3/29/97: [3]				
Fiscal Year	([4])	21,179,346	23,476,558	30,924,598
Filing season	([4])	[5] 14,287,085	18,081,884	24,652,160
Walk-in as of 3/22/97:				
Fiscal year	2,869,005	2,997,884	3,224,312	3,354,413
Filing season	([4])	([4])	2,142,728	2,296,333
Accuracy rates:				
Tax law (percent)	89.9	89.6	90.0	95.0
Accounts (percent)	85.9	91.5	([4])	93.0
EFTPS as of 3/28/97:				
Dollars (billions)	N/A	N/A	N/A	$54.8
Number enrolled	N/A	N/A	N/A	[3] 960,171
TaxLink as of 3/28/97:				
Dollars (billions)	$78.17	$84.9	$175.3	$173.1
Number enrolled	([4])	32,057	57,201	79,689

[1] Comparison is made to the closest measurement period in these years.
[2] On-line and FedState totals are included in 1040 ELF volumes.
[3] As of March 15, 1997—97 calls answered including 1040, 8815 and 4262 calls.
[4] Unavailable.
[5] Computed figure.

BROWSING AT IRS

Senator CAMPBELL. I know that you would like to leave by 11:15. I have about 8 or 10 questions. I think about one-half of those I will submit to you. If you would answer those for the committee in writing, I would appreciate it. Just let me ask you a couple.

You have, obviously, addressed the issue with the IRS Commissioner as part of your oversight functions on many occasions. I take that from your testimony. How long have you known about the snooping problem within the IRS? When did it come to your attention?

Mr. SUMMERS. Snooping as an issue has been out there for some years. In 1993, the IRS introduced a set of policy changes that were

designed to deter snooping within the IRS, and we were aware of this problem and that they were working to fix it. When I say we, I mean people in the Treasury Department. It was not part of my position at that time.

Subsequently, it has become clear from the GAO reports and from other sources that the steps that had been taken were not adequate to respond to this problem, and that is why we have worked with Senator Glenn to support this legislation that offers, we believe, an important prospect to enhance our deterrence with respect to snooping.

Senator CAMPBELL. You feel that you cannot do an adequate job without that legislation to really rein in the snooping?

Mr. SUMMERS. I think it is absolutely essential that that legislation pass. I think it is also essential that we strengthen our technical means to detect snooping when it takes place. And I think it is essential that we draw on the best practices, because this problem of available records and employees is a problem that hospitals face. It is a problem that credit card companies face. We have to learn what the best practice is, and we have to make sure we are implementing the best practice. That is what Secretary Rubin and I have ordered that the IRS do.

Senator CAMPBELL. I noticed with interest, you mentioned that some of the browsing is done against people's enemies. But they also do it with their own relatives and friends, on occasion. Who within the IRS and Treasury is ultimately responsible for the management and security of taxpayers' files? Is there an office or a title of a person that is the lead person on that?

Mr. SUMMERS. Ultimately, the Commissioner of the IRS, the Secretary and Deputy Secretary of the Treasury, and ultimately the President are responsible for the execution of law, and we take that responsibility very seriously. There is a privacy advocate within the IRS for whom issues of this kind, obviously, should be an important focus.

Senator CAMPBELL. Thank you. I will submit the rest of my questions.

Senator Kohl.

MANAGEMENT FAILURES AT IRS

Senator KOHL. Thank you, Mr. Chairman. Deputy Secretary Summers, I would like to focus on the Department of the Treasury and the IRS' administration that allows the recurrence of management failures. Recently Congress has signaled its concern over IRS' progress in modernizing its processes and systems by cutting IRS' budget request for funds to support modernization efforts, withholding modernization funding until IRS successfully addresses certain identified problems, directing Treasury to assess and report on IRS progress in taking corrective actions, and establishing a national commission on restructuring IRS with a broad charter to review IRS management and operations.

Treasury has also signaled its concern by directing the IRS to allow in outside contractors with technical expertise, and establishing a review and decisionmaking board to monitor IRS' information technology, the Modernization Management Board. My question is, Have any of these efforts produced an IRS that is more manage-

ment aware? And what actions has the IRS taken to indicate that they are taking these management failures seriously?

Mr. SUMMERS. Senator, the changes that have been made over the last year in canceling or consolidating 26 projects, many of which had been underway for some years that were not producing the kinds of cost-effective results that had been hoped, that represented the cancellation of contracts into which a good deal had been invested because of a recognition that you cannot run a business by using the sunk cost principle and continuing any investment in which you have sunk costs, but instead have to go on a go-forward basis and do only those things that are economic, going forward, recognizing that that can mean some painful writeoffs.

I think that is a real departure, and I think it is an important departure. If you look at contracts like the DPS contract, a very tough decision was made and I think that decision was forced by the processes of improved management that we have put in place.

Traditionally, senior positions at the IRS have been, in the vast majority of cases, filled from within. The Department and the IRS brought in Art Gross as Chief Information Officer even though his experience was not at the IRS. His experience was in quite innovative reengineering, in effect, of the New York State tax system. As Chief Information Officer and Associate Commissioner for Modernization, he now has broad ranging responsibilities for the information technology program and is assembling a team, in part from within the IRS and in part by drawing on expertise that is available on the outside, to change the management practice.

So we have taken tough choices. We have brought in new people. We have changed approach.

IRS PRIME CONTRACTOR

Traditionally, the IRS has been its own systems integrator. It has taken responsibility for negotiating with a wide number of different contractors, and with that wide number of different contractors it puts the whole process together. We have made a decision to seek to move toward a prime contractor and have committed to develop the specifications and share them with industry and are ahead of schedule—something that I think has not been terribly common in the past—ahead of schedule in being in a position to share those prime contract specifications with the contractor community.

And as I suggested, with all the problems, I think it is worth taking note and acknowledging where there has been improvement. Thirty-six percent more people—not enough, not adequate, but 36 percent more people were able to speak on the telephone with an IRS representative. They got more accurate information than they had in the past.

So I think we have said all along that this is going to be a process of continuing improvement. That that is going to take a long time. That these problems were not made within a year and that it is going to be a process of producing improvement. But I am convinced that the turn that we indicated we needed to bring about is underway.

TREASURY EXECUTIVE ATTENTION TO IRS

Senator KOHL. You are a very busy man with many responsibilities, one of which is the IRS. Could you tell us, in the average month how much time do you get to spend on these problems?

Mr. SUMMERS. It seems like a lot of time. In the last several months I think I have spent certainly more time on the IRS and issues of IRS management than I have on any other single issue that the Treasury Department is engaged in. I might say that Secretary Rubin has also devoted a substantial amount of time to discussing issues relating to the structuring of the IRS, the search for a new Commissioner, design of the information technology management programs.

So this is, in terms of people, more than two-thirds of the Treasury Department and is about as fundamental an executive responsibility, collecting taxes, as the executive branch has. So while it may not always have been a high priority for the Treasury Department, certainly Secretary Rubin has made it a central priority for himself and for his team, and I guess his team starts with me.

But beyond what we are able to do, this structure we have created, the management board, which by meeting monthly, by having to review all major investments and strategic decisions, focusing a whole set of review activities that take place within the Department.

In our management section which looks at cost effectiveness analyses with respect to investments, in our tax policy areas that reviews regulatory decisions and reviews policy decisions that have impact on tax administration, in our legal area that reviews questions relating to taxpayers' rights and drove some of the decisions that were contained in the simplification proposal we have put forward. For example, to make certain adjustments with regard to equitable tolling, taxpayers who were disabled or were unable to file their returns for very legitimate kinds of health reasons who previously had not been treated fairly under the system.

So it is a major preoccupation for Secretary Rubin and I. But beyond that, it receives very substantial attention from a number of different parts of the Treasury Department. In particular, we are strengthening the oversight in the management area because clearly that is something where we are going to need to be able to do our own analyses in order to hold the IRS accountable for performance.

Senator KOHL. Thank you.

Thank you, Mr. Chairman.

Senator CAMPBELL. Senator Shelby.

Senator SHELBY. Thank you.

PENALTIES FOR BROWSING

Secretary Summers, I understand that the GAO listed retirement as one of the most severe penalties that is imposed by the IRS on employees caught browsing. Is it possible for an IRS employee who is caught file snooping, browsing, to receive a buyout for early retirement? And is it also possible for that employee to keep retirement benefits?

In other words, is there a difference between being fired and just getting early retirement?

Mr. SUMMERS. There ought to be a difference, Senator.

Senator SHELBY. What did you say?

Mr. SUMMERS. Senator, I said there certainly ought to be.

Senator SHELBY. There should be a difference.

Mr. SUMMERS. There ought to be a very clear difference.

Senator SHELBY. Do you know if there is a difference?

Mr. SUMMERS. I suspect that the difference now is inadequate. That is why I think it is very important that we pass this legislation that affects browsing. As you can appreciate, Senator, this is not an area I am familiar with. Throughout the Federal Government there are personnel policies to cover if somebody is guilty of some kind of malfeasance and is fired and what happens to their pension with respect to what they have accumulated to date. That is something that has to be harmonized with overall personnel policies.

But certainly, people should not get bought out for having committed serious instances of malfeasance. That is absolutely wrong.

Senator SHELBY. How important is it, do you believe, within the Internal Revenue Service that they stop browsing, stop snooping of employees in taxpayers' files? How important is it to the integrity of the Internal Revenue Service?

Mr. SUMMERS. I think customer service is the highest priority for the IRS, along with ensuring compliance. And I think that achieving ending browsing is absolutely central to that objective.

STOPPING BROWSING AT THE IRS

Senator SHELBY. How do you stop things like that? Do you stop it by an example of firing people, by punishing people that do this, that break into taxpayers' private files? Or do you do it by just giving them a retirement and a little slap on the wrist?

Mr. SUMMERS. I think you do it by firing them, and I think you do it by making it a crime, a Federal crime. That is why the legislation that Senator Glenn and Senator Coverdell and Congressman Archer have worked on is so very important. And I think, as I acknowledged in my testimony, Senator, that the approach that was followed to date has not been adequate. That is why it is so important that we have this legislation.

Senator SHELBY. Would you, for the record, just furnish this? I am sure you do not have it today. By how many IRS employees who have been caught file snooping or browsing have received early retirement? We would like to have that for the record.

And Dr. Summers, can you provide this committee an idea of how much money has been paid in early retirement incentives or retirement benefits to the IRS employees caught snooping in other people's tax files? Could you do this for the record for the committee?

Mr. SUMMERS. We certainly will.

PRIVACY OF TAX RECORDS

Senator SHELBY. I realize you do not deal with the details of this in your job description every day, but as one of the key people over there, you and Secretary Rubin, I think it is very, very important

to send a message to the American people that when they file their tax returns that their privacy is going to be protected, do you not?

Mr. SUMMERS. Absolutely. Absolutely, I think it is a central aspect of maintaining the integrity of the system. That is why I think the legislation is important. But that is why I think the legislation is not the whole answer. I think we have to strengthen our systems of detection with respect to these kinds of problems. This is a problem that the IRS faces. It is a problem that a major hospital faces where you do not want people browsing through people's medical records. It is a problem that credit card companies face, and we need to find——

Senator SHELBY. Doctor, you are not comparing, I hope, the Internal Revenue Service—that institution that Americans live in fear of and have a lot of respect for historically—to regular hospital records that people run in, and look in, and copy and so forth?

Mr. SUMMERS. Not at all.

Senator SHELBY. You are not really comparing the IRS to a hospital? I hope not.

Mr. SUMMERS. Not at all, Senator. I was only seeking to suggest that I think, as a general proposition, we in Government need to find best practices from the private sector to assure that we are incorporating them. And I think we have to be held to a much, much higher standard than any private institution in terms of stopping browsing because of how absolutely fundamental a person's tax return is as basic financial information, and how central privacy is with respect to that very basic information.

Senator SHELBY. Has this Secretary and this administration put a great emphasis on that at the Internal Revenue Service, or is it just business as usual? We hear about it in the press and somebody—we have a hearing, and it goes on and people continue to go on and do it, and if they get caught, they get a retirement. Or what happens?

Mr. SUMMERS. As I acknowledged, Senator, I think what we are seeing is that what was put in place when this problem surfaced several years ago was not fully adequate. That is why from this point forward this has been made something that is absolutely central. It is not business as usual. It has occupied a substantial amount of time of the top management of both the Treasury and the IRS, and we are going to do everything we humanly can to combat this practice.

Senator SHELBY. If the Congress passes the bill to make this a crime, are you and the Secretary going to urge the President to sign it and not veto it?

Mr. SUMMERS. Absolutely.

Senator SHELBY. Thank you, Mr. Chairman.

Senator CAMPBELL. Senator Faircloth, do you have comments or questions?

SUPERVISION OF IRS EMPLOYEES

Senator FAIRCLOTH. Yes; thank you, Mr. Chairman, I do have a very brief statement and I will make it more brief than it was. I thank you for holding the hearing.

Today is an important day in most of our lives in that today is the big day, and 211 million Americans are going to file tax returns and they are going to pay something like $1.6 trillion.

But the results of the recent investigation by the General Accounting Office was an outrage when there were 1,500 cases of IRS employees going into Government computers to browse through tax files. It is not the first time. It went on in 1993 and 1994 when 1,300 tore into the same files. But that ended it in 1993 and 1994, because the Commissioner announced a zero tolerance for such policies. I am not sure what zero tolerance means. I guess it means be more discreet when you do it from now on.

I am concerned that we cannot count on the senior management at the IRS to supervise their own employees. I have some questions about the supervisors themselves. I keep reading accounts in the paper of specific organizations being audited selectively. I do not know whether it is true or not. I do not work for the IRS. But I think if it is, it is a deplorable condition to have developed.

I support the bill that Senator Glenn is an original cosponsor. The only problem I find with it is it is far, far from strong enough; $1,000 fine and 1 year in prison for probing into some people's files. It does not take much of a breaking of revenue loss to bring you a lot more than that under the revenue code.

But I think I will go on with a question. What authority does the Secretary of the Treasury have over the IRS Commissioner? In other words, who supervises the head of the IRS in making selective audits?

Mr. SUMMERS. I will try to give you as legally accurate an answer as I can.

Senator FAIRCLOTH. Just an accurate answer. It does not have to be legal.

Mr. SUMMERS. The Commissioner of the IRS is a Presidential appointee subject to Senate confirmation. The Commissioner of the IRS reports to the Office of the Secretary of the Treasury in this administration, and I think normally, through the Deputy Secretary of the Treasury.

Senator FAIRCLOTH. Come through that again slower, or maybe quicker.

Mr. SUMMERS. The Commissioner of the IRS is a Presidential appointee subject to Senate confirmation located in the Treasury Department. The Commissioner reports to the Office of the Secretary of the Treasury.

Senator FAIRCLOTH. Which is you?

Mr. SUMMERS. Which is the Secretary of the Treasury and me as Deputy Secretary; that is right.

Senator FAIRCLOTH. So you supervise her?

Mr. SUMMERS. That is right.

Senator FAIRCLOTH. So you take responsibility for her actions?

Mr. SUMMERS. That is right.

TAXPAYER BILL OF RIGHTS

Senator FAIRCLOTH. I am always amused, the administration has a taxpayers' bill of rights; is that not right?

Mr. SUMMERS. That is right.

Senator FAIRCLOTH. Why write a taxpayers' bill of rights when you blatantly are ignoring the original Bill of Rights in the Constitution by probing into people's tax returns? Why have one if you are not going to obey the other? It kind of sounds like a redundancy to me.

Mr. SUMMERS. Senator, there is no difference, I think, between anyone in the administration, in the Congress, in the indignation with which we regard, and the outrage with which we greet these revelations that snooping is a continuing practice. We are determined to do everything we can to find the formula which will eliminate this practice because it is an outrage.

Senator FAIRCLOTH. What did you do with the 1,300 they caught in 1993 and 1994? What happened to those people? How many of them were fired?

Mr. SUMMERS. I do not have the data on 1993 and 1994, but——

Senator FAIRCLOTH. Does somebody know?

Mr. SUMMERS. It was a small fraction.

Senator FAIRCLOTH. Does somebody there know?

Mr. SUMMERS. If somebody can hand it to me, they can give it to me. But it was a very small fraction.

Senator FAIRCLOTH. Were fired?

Mr. SUMMERS. A very small fraction were fired, that is right.

Senator FAIRCLOTH. What did you do with the other ones?

Mr. SUMMERS. In some cases there were cautions and no formal discipline. In others there was formal discipline up to a suspension of less than 14 days. In other cases there was a suspension of 14 days or more or a grade reduction.

Senator FAIRCLOTH. How many of them were retired?

Mr. SUMMERS. I do not have in front of me the information on those who retired.

Senator FAIRCLOTH. I see a man back there who looks like he is getting it.

Mr. SUMMERS. If somebody can hand me—the only information that I have here is on fiscal years 1995, 1996, and 1997 to date.

Senator FAIRCLOTH. So you are talking about the 1,500, the last batch of them.

Mr. SUMMERS. I am sorry, Senator?

Senator FAIRCLOTH. It was 1,300 they caught in 1993 and 1994.

Mr. SUMMERS. I do not have the numbers in front of me on 1993 and 1994.

Senator FAIRCLOTH. Well, do you have them behind you?

BROWSING IN 1994

Mr. SUMMERS. I am looking for them behind me. Apparently, we do not have them behind me. We will certainly furnish that information for the record.

I was just given a sheet of paper that says that in fiscal year 1994, for example, there were 646 allegations involving misuse of the system. That in 50 of them the person was cleared. In 204 of them the matter was closed without action, whatever that means. In 190 of them the person received counseling.

Senator FAIRCLOTH. What does counseling mean?

Mr. SUMMERS. I suspect that means their supervisor spoke with them about how this was wrong.

Senator FAIRCLOTH. And they did not know that before?

Mr. SUMMERS. Senator, I can only——

Senator FAIRCLOTH. I am sure glad they told them that that was wrong.

Mr. SUMMERS. Senator, I share your indignation about this having been managed in a way that was wrong. That is why I think this legislation making clear to everybody that this is a crime is so very, very important.

TAX SYSTEMS MODERNIZATION

Senator FAIRCLOTH. If I may, I want to ask you a quick question about the computer fiasco. Will you tell me where that has been and where it is heading? Briefly, because the chairman is going to cut me off.

Mr. SUMMERS. It has been way off track. It has been turned around through the cancellation of projects that are not cost effective going forward through the development of an architecture, through bringing in new personnel, and through turning the most difficult work over to closely supervised private sector experts.

Senator FAIRCLOTH. Whoa, whoa. You mean you are going to turn the tax returns——

Mr. SUMMERS. No, no, no. No; the task of building a computer system. Not operating a computer system or having any contact with tax returns. The task of building and constructing a computer system and making sure that different computers talk to each other in line with the recommendations of a number of outside groups, we are going to move toward a prime contracting approach.

Senator FAIRCLOTH. Mr. Summers, there is not anyone in the world that knows less about computers than I do, and at 69 years old I plan to go out of here without learning any more about them. But I would think somewhere in the IRS, with all of its accumulated wisdom, with the ability to draw on any source in the world, I do not see how we could waste $3 billion—and that is what I understand we have absolutely wasted in a fiasco of mistakes. Is that an overstatement of the facts?

Mr. SUMMERS. Senator, serious as this problem has been, I think it is a bit of an overstatement of the facts.

Senator FAIRCLOTH. Cut it back to where it should be. How many billion did you lose?

COST OF TSM

Mr. SUMMERS. The total cost of the project has been between $3 and $4 billion, and the project overall has certainly not lived up to expectations. But the largest fraction of that money has been used to modernize equipment, to create systems like the Telefile, which has enabled more and more Americans to pay their taxes on telephones. Approximately $500 million has been spent on systems that were subsequently discontinued as not cost effective.

Senator FAIRCLOTH. So you are saying that of this $4 billion, $3.5 billion of it has been well-spent money, and no waste? It can jump right in——

Mr. SUMMERS. No; I think there are——

Senator FAIRCLOTH. I keep hearing that only a small part of it is salvageable.

Mr. SUMMERS. No; I think, Senator, based on our analysis of the situation——

Senator FAIRCLOTH. Half of it?

Mr. SUMMERS. Most of the money has been spent purchasing equipment that is in use at the IRS today assisting in the processing of tax returns. I am not going to say that that means that that money was spent as well as it could have been, that the systems that were purchased were the right systems or that they are as effectively configured to interact with one another as they could have been if this project had been better designed and managed. But the writeoff, the stuff that is the equivalent of trying to purchase a plane that does not fly, that is contained, that represents about $500 million, which—just so we are clear—is $500 million too much.

ACCOUNTABILITY FOR TSM

Senator FAIRCLOTH. Who was in charge of buying this stuff? Who was the person in charge of running it, buying it and making it work?

Mr. SUMMERS. This project, the efforts to computerize the IRS have been underway for 25 years. The TSM program has——

Senator FAIRCLOTH. But this thing started about 4 years ago, this expenditure, did it not?

Mr. SUMMERS. No; I think that the TSM program that involved the figures that you referred to dates back to 1988 or 1989——

Senator FAIRCLOTH. Who was in charge of it in 1988 or 1989?

Mr. SUMMERS. And has been carried on under three or four IRS Commissioners. I think that the responsibility would be with the Commissioners. Frankly, I do not precisely recall the order of the Commissioners during the 1980's. Ms. Peterson was the Commissioner for a time. Mr. Goldberg was the Commissioner for a time. Mr. Gibbs was the Commissioner for a time. There have been a number of Commissioners.

Senator FAIRCLOTH. But was there not an engineer, a computer expert within the IRS that was leading this?

Mr. SUMMERS. There have been a number of——

Senator FAIRCLOTH. The Commissioner is a political appointee. They kind of come and go. But is there not a head engineer for computer buying in the IRS?

Mr. SUMMERS. Frankly, that has been one of the problems. There were over this period a number of Associate Commissioners for Modernization and Chief Information Officers who had responsibility. Frankly, the performance internally had not been satisfactory, which is why the Department insisted, after recognizing that the program was way off track, that the IRS turn to the outside and get someone with proven experience in this area, and the Department took an active involvement in recruiting Mr. Gross.

Senator FAIRCLOTH. Did you fire the ones that messed up inside?

Mr. SUMMERS. The ones that——

Senator FAIRCLOTH. That wasted this $1 billion.

Mr. SUMMERS. The ones who, the people who I think were involved in making these mistakes are no longer involved in information technology management at the IRS.

Senator FAIRCLOTH. What are they involved in? They are still with the IRS?

Mr. SUMMERS. In some cases the people have resigned and have left the IRS. Whether there are other people who are now working in the IRS in capacities outside of information technology management who were involved in some way in this program, I think that may well have happened.

Frankly, Senator, this is also part of what has been involved in our effort to fix this is, I think, exactly what you are trying to get at, which is that the culture of the IRS did not provide for adequate accountability.

Senator FAIRCLOTH. I am sorry?

Mr. SUMMERS. The way the IRS was structured did not provide for adequate accountability. In other words, a committee, a group of people who were supposed to work together on the system, and so if the system did not work there was no identified individual who could be held responsible.

Senator FAIRCLOTH. It sounds like it was put together by a committee. It really does. It has all of the outward appearances of a committee operation.

Senator CAMPBELL. The gentleman's time has——

Mr. SUMMERS. Senator, we have changed that. Senator, I just want to say, we have changed that. There is now a person who is in charge, who is responsible, who has come in from the outside and who I believe is doing a very good job.

Senator FAIRCLOTH. Thank you.

DISPOSITION OF IRS BROWSING CASES

Senator CAMPBELL. Just as an addendum to what Senator Faircloth, some of the questions he asked, I have a disposition of cases, misconduct allegations involving misuse of the IDRS in front of me here and I am looking at the 1995—and they are pretty similar to 1991, 1992, 1993, and 1994. It says 7 percent were cleared, 33 percent closed without action, 32 percent counseled, 21 percent disciplinary action, 5 percent retirements. Only 1 percent separation. The word separation means fired, gone, right?

Mr. SUMMERS. I believe so.

Senator CAMPBELL. I wanted to ask you, IRS people are all Civil Service people; is that correct?

Mr. SUMMERS. Yes.

Senator CAMPBELL. So it is pretty tough to fire them?

Mr. SUMMERS. Yes.

Senator CAMPBELL. You have got to have pretty solid grounds?

Mr. SUMMERS. Yes.

Senator CAMPBELL. The IRS, I guess their business kind of ebbs and flows. This is a very busy time of the year. In the fall it is not nearly as busy, I would assume. Is that correct?

Mr. SUMMERS. Yes.

IRS SEASONAL EMPLOYMENT

Senator CAMPBELL. What do all those people do, that 100,000 manpower do in the fall?

Mr. SUMMERS. The witnesses you will have subsequently could speak more knowledgeably than I. But part of the answer to the

question is that the IRS hires seasonally, and hires as many as 30,000 people seasonally.

Senator CAMPBELL. Are they Civil Service when they are hired seasonally?

Maybe the IRS can answer. I might be asking the wrong person.

Mr. SUMMERS. I am told they are.

Mr. MORAVITZ. Yes, sir; they are. Many of them are temporary, but they are seasonal.

Senator CAMPBELL. Can I also ask you, two or three times you referred to taxpayers as customers. If I go to a store and I purchase something, I know I am a customer. When did that come into vogue, calling taxpayers customers? And what kind of a service do they get for their hard-earned money when they turn it in? Is that kind of a placebo? Because if I ask my folks at home, they are not going to refer to themselves as customers. They are going to, if anything, refer to themselves as victims.

Mr. SUMMERS. I think you raise a very fair point, Senator. I think that the term customer service has been used in recent years precisely with the objective of trying to change the culture at the IRS so as to treat taxpayers more like people in stores treat the people who buy from them and less like victims. To provide more courteous and responsive service on the telephone, to recognize that people have problems, and to treat people in the right kind of way.

It is the analogy of how successful businesses have come to treat the people they interact with that is what we are trying to inculcate in the IRS through the use of that term. I think we can probably all agree that the IRS should be seeing taxpayers not as victims, but as people who are to be respected and worked with as cooperatively as possible.

Senator CAMPBELL. I thank you, Mr. Summers. I have no further questions. Senator Kohl, do you have?

Senator KOHL. I would only make the comment, Mr. Chairman, and Mr. Summers, in a recent poll 75 or 80 percent of the American people indicated that they really do not have any strong quarrel with the IRS; that they feel that they have been treated fairly and have not had any disputes of one sort or another. But it is, as we have pointed out and you have said, essential that the confidence of the American people with respect to this poll is repeated again and again in the future.

There is a lot of work to be done. I am encouraged by your statement that you are spending a great share of your time on this problem. I do not think that there is anything more visible to the American people in terms of what you do than straightening out this problem and assuring the American people in the months and years to come that in fact the IRS is operating in a marvelously efficient, and disciplined and ethical manner. I would like to hope that as a result of your activities, and this hearing and what you have heard, and what you are going to do, that in the years ahead we will achieve that result.

Mr. SUMMERS. Thank you very much, Senator.

SUBMITTED QUESTIONS

Senator CAMPBELL. Thank you, Mr. Summers. We got you out a few minutes late, but hopefully you will not miss your next appointment. We will submit additional questions to be answered for the record.

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

QUESTIONS SUBMITTED BY SENATOR CAMPBELL

IRS MANAGEMENT AWARENESS

Question. Deputy Secretary Summers, what I would like to focus on this morning is the Department of the Treasury's and the Internal Revenue Service's administration that allows the reoccurrence of management failures.

Recently, Congress has signaled its concern over IRS' progress in modernizing its processes and systems by:

—cutting IRS' budget requests for funds to support modernization efforts;

—withholding modernization funding until IRS successfully addresses certain identified problems;

—directing Treasury to assess and report on IRS' progress in taking corrective actions; and

—establishing the national Commission on Restructuring IRS with a broad charter to review IRS management and operations.

Treasury has also signaled its concerns by:

—directing the IRS to rely on outside contractors for technical expertise; and

—establishing a review and decision making board to monitor IRS' information technology—the Modernization Management Board.

Have any of these efforts produced an IRS that is more management aware? What actions has the IRS taken to indicate they are taking these management failures seriously?

Answer. We are all quite aware of these criticisms. We are certainly spending a considerable amount of time and effort to make sure that the IRS does not simply go into a defensive crouch, but instead deals with both criticisms and new ideas forthrightly and openly. We have already taken some significant actions, such as appointing a new CIO with wide powers and intensified our recruitment efforts in order to attract outside talent. We think we have made considerable progress already, with more to come.

Question. Senator Glenn's Bill, the Tax-Payer Privacy Protection Act would:

—Provide that unauthorized inspection of returns or return information is an offense punishable by a fine (not to exceed $1,000) or imprisonment of not more than one year, or both together with costs of prosecution;

—Allow for the firing upon conviction of any officer or employee of the U.S. who committed the offense; and

—Clarify that unauthorized inspection of returns or return information is a violation of the Criminal Code's confidentiality provisions.

Do you support Senator Glenn's proposed Taxpayer Privacy Protection Act? Do you believe that criminalizing taxpayer file browsing will eliminate this practice?

Answer. While we can never give assurance that such changes to the law will eliminate the practice, we support adding a new provision to the Internal Revenue Code that would specifically prohibit the unauthorized inspection or browsing of tax returns and return information, as Senator Glenn's bill would do. Such legislation would explicitly make it a crime to examine willfully records not within an employee's official responsibilities. It would prohibit the unauthorized inspection of non-computerized tax information, such as hard-copies of paper returns or return information, and the unauthorized inspection of State or local government computers not covered by the Economic Espionage Act amendments of last year. The new legislation would clarify that such inspections alone constitute a separate criminal offense.

We therefore support the addition of a new, separate misdemeanor for unauthorized inspection, as Senator Glenn's bill would provide. For some minor technical reasons, however, the version of the bill that we prefer is S. 522 or H.R. 1226.

BLUE RIBBON PANEL

Question. Mr. Summers, in your April 10th testimony before the senate Government Affairs Committee you discussed the establishment of a blue ribbon panel of experts which will provide private sector security expertise. Could you please explain the functions of this panel?

Answer. We have proposed creating a blue-ribbon panel as part of our 5-point plan to improve IRS management. This group would include outside experts in the areas of technology, financial services and tax administration and would provide advice and assistance to the Secretary and the IRS on a variety of topics, including security.

AUDIT RESEARCH LOG

Question. Isn't it true that consistent review and application of the existing Audit Research Log would confirm that inappropriate access has occurred? Do you have any indication that the private sector has developed superior systems which are less labor intensive?

Answer. The IRS' current processes have identified that unauthorized access has occurred. IRS is currently assessing its policies and procedures for protecting against and detecting unauthorized access, and it is currently evaluating the possible consolidation of many functions to ensure consistent review and application of the Audit Research Log.

To date, IRS has not found any superior systems or any less labor intensive systems for preventing or detecting unauthorized access to individual tax records. IRS is continuing to look at commercial-off-the-shelf software or any best practices being used by the private sector that could be used for this purpose.

FIXING THE IRS

Question. You are establishing panels and instituting boards and encouraging the use of outside contractors. But the IRS problems, those that seem to persist, are the result of a breakdown in management decision making. This decision making seems to be made independent of the desired outcomes. What actions are being taken to ensure the management of the IRS is fixed?

Answer. I would, of course, strongly disagree with the characterization of IRS management as having broken down. The agency is still functioning and many areas are continuing to be quite successful. This year's filing season, for instance, has gone very well.

But as is true with any large organization, there is always room for improvement. We have made a number of proposals and decisions in this area. For instance, we have determined that the primary criterion for the next Commissioner will be management experience with large organizations and with how to implement technology-based changes. We have intensified our efforts to bring in outside managers with new ideas, experience and energy. We would like to do more in this area.

I think it is important to recognize that there are no simple answers to the problems facing the IRS. What is needed is continued hard work and the willingness to make difficult decisions. That is what we are trying to achieve.

MODERNIZATION MANAGEMENT BOARD

Question. It is my understanding that you have been instrumental in organizing a modernization management board (MMB) to provide oversight of the TSM acquisition system. What kind of oversight does this board provide? Can you explain the amount of time board members spend reviewing the IRS proposals? Who staffs the board? Has the board rejected any IRS proposals?

Answer. We created the MMB last summer. I serve as the Chair. The other members include the senior officials from OMB, Treasury and IRS who are responsible for tax administration. We have tried to use the Board as the equivalent of a proactive Board of Directors for a large private sector corporation. Like any such Board of Directors, the MMB will focus on broad strategic issues and major investment decisions for the IRS. For instance, we will be spending a considerable amount of time this spring on the overall IRS systems architecture and development plan.

I should note that the MMB does not become involved in tax policy issues, which are handled through different means. Its focus is on management issues.

The amount of time that individual Board members spend on IRS issues will naturally vary. Most of the members already spend a great deal of time on the IRS and have general familiarity with the issues. I will say that I have been putting a large portion of my time into IRS management issues over the past year, and expect to continue to do so.

The MMB has a small professional staff. In the past the staff has been drawn from the IRS. We are now converting the staff into Treasury employees.

As for the Board's actions in rejecting IRS proposals, things seldom develop that way. I see the MMB's primary job as clarifying strategic options and, on occasion, choosing one. What we constantly do is push the IRS for more specificity, imagination and speed. So far the process has worked quite well.

Question. The National Commission on Restructuring the IRS, of which you are a member, is planning to issue its final report in June. It is my understanding the Commission will address the security weaknesses and management problems that exist within IRS. What can you tell us about the Commission's recommendations for tackling these problems?

Answer. The Commission is scheduled to release its final report in June, however, I am not a member of the Commission and will have to reserve my comments on their proposals until I have seen them.

TREASURY/IRS ACCOUNTABILITY

Question. How does Treasury intend to follow up and monitor the IRS to ensure they are following through with the policies put in place? The concern here is that not enough oversight has been carried out in the past on this issue.

Answer. Treasury intends to monitor the "browsing" issue on a continuing basis. Deputy Secretary Summers has requested a comprehensive report from the IRS on its plans. This report will be discussed at a special meeting of the Treasury Modernization Management Board (MMB), which is the principal body within Treasury for oversight of the administrative functions of the IRS. In addition, the Treasury Office of Security will work closely with the security office at IRS to monitor implementation of IRS plans. The MMB will continue to track this issue.

Using the tools presently available to it, the IRS has already stepped up its efforts to end "browsing." Those tools include: employee training on the privacy policy of § 6103; regular refreshers on § 6103; privacy guidelines to employees, condemning unauthorized browsing of taxpayer records; warnings when documents are accessed by computer; expanded use of the Electronic Audit Research Log ("EARL") to identify instances of unauthorized access; an "800" number for reporting misconduct; new managers in the computer security program; and disciplinary actions, up to and including dismissal from employment, against employees who are found to have violated the privacy policy.

We also support the application of criminal sanctions to employees found guilty of "browsing." As you know, the Economic Espionage Act of 1996 amended the Federal wire fraud statute in the criminal code (Title 18 U.S.C.), to make unauthorized access by computer to information from any department or agency of the United States a separate misdemeanor offense. In view of these provisions, "browsing" a Federal computer is already punishable as a crime.

Further, we support the legislation (H.R. 1226 in the House, S. 522 in the Senate) to make "browsing" a separate criminal offense under the Internal Revenue Code. This should provide an additional tool to criminal investigators and prosecutors and, perhaps more importantly, an additional deterrent to IRS employees who may be tempted to browse.

We fully expect that these actions will deter persons who have access to tax returns and return information from unauthorized browsing, and we anticipate that the number of such instances should decline significantly in the future. We will be closely monitoring the IRS's progress in this area over the next couple years. If improvements are not forthcoming, we may seek additional tools from Congress.

SECURITY PROCEDURES/PUNISHMENTS

Question. What action has the Treasury Department taken to ensure the IRS puts in place solid mechanisms to protect taxpayer files?

Answer. As noted in response to the previous question, the Deputy Secretary has requested a comprehensive report of what IRS will do managerially and technically to better address unauthorized access problems. The report will be reviewed by the MMB, and the MMB will monitor IRS progress in this area.

Question. Is there a Department of the Treasury standard for dealing with sensitive information, such as taxpayer files for example, import/export financial information at Customs? Please provide the committee a copy of these standards for the Record.

Answer. The Department is governed by a wide range of standards and rules limiting access to official information. The Standards of Ethical Conduct for Employees of the Executive Branch provide that "An employee shall not * * * allow the use of nonpublic information to further his own private interest or that of another." 5

C.F.R. § 2635.703. This requirement applies to all Treasury employees in all bureaus and offices, is distributed to every employee, and is the subject of periodic ethics training. The requirement is supplemented by the Department's supplementary ethics regulations, specifically 31 C.F.R. §§ 0.205 and 0.206, which provide that "[employees are required to care for documents according to federal law and regulation, and Department procedure [and] shall not disclose official information without proper authority, pursuant to Department or bureau regulation."

As a general matter, disclosure of information maintained by the Department is governed by the regulations at 31 C.F.R. Part 1. With respect to sensitive information about individuals, information that is retrieved by that individual's name, code, number, may be disclosed only to employees who have a need for the record in the performance of their duties, pursuant to the Privacy Act of 1974, as amended, 5 U.S.C. § 552a . This requirement is promulgated department-wide by Treasury regulations at 31 C.F.R. Part 1, Subpart C and Treasury Directive 25–04, which also require each component to develop a Notice of System of Records for every system from which information about individuals is retrieved. All systems notices require a description of the safeguards for the records contained therein. A list of the Department's current Privacy Act Systems Notices is attached at Attachment A. As shown in Attachment A, the IRS has in excess of 100 Privacy Act Systems. Of special note regarding access to taxpayer files is IRS 34.018, which logs employee inputs and inquiries to the IRS's Integrated Data Retrieval System. A copy of that Notice is attached at Attachment B.

[CLERK'S NOTE.—Attachment A can be found in the Federal Register, Vol. 60, No. 217, Nov. 9, 1995, Notices, pp. 56648–56651 and attachment B can be found on p. 56802 of the same volume.]

Regarding other sensitive information, the Department's Security Manual establishes comprehensive, uniform security policies governing personnel, physical, and information systems security. While much of the Manual deals with National Security Information classified pursuant to Executive Order 12958, portions of it specifically address controls on Sensitive But Unclassified (SBU) Information, including proprietary, financial, and business confidential information. Section VI, 4.B.1 of the Manual, Controlled Access Protection for Automated Information Systems and Networks Processing Sensitive but Unclassified Information, is attached as Attachment C.

[The information follows:]

[ATTACHMENT C]

OFFICE OF SECURITY MANUAL, CHAPTER VI, NO. 4.B.1.

OCTOBER 1, 1992.

Subject: Controlled Access Protection (C2) for Automated Information Systems and Networks Processing Sensitive But Unclassified Information

1. *Purpose.* This section provides policy and establishes the requirement to execute a minimum level of protection for automated information systems (AIS) and networks accessed by more than one user when those users do not have the same authorization to use all or some of the sensitive but unclassified (SBU) information processed, stored, or communicated by the AIS or network. Controlled Access Protection (also known as C2) can be used to deny unauthorized access to information stored in AIS and prevent outside intruders from electronically accessing SBU information by way of supporting telecommunications in networked AIS.

2. *Policy.* It is the policy of the Department of the Treasury that AIS and networks which process, store, or transmit SBU information meet the requirements for C2 level protection as evaluated by the National Security Agency (NSA) or National Institute for Standards and Technology (NIST). The criteria for C2 is as follows:

a. ensure individual accountability through identification and authentication of each individual system user;

b. maintain an audit trail of user security relevant events;

c. control responses to a user's request to access information according to the user's authorization; and

d. prevent unauthorized access to a user's current or residual data by clearing all storage areas (core, disk, etc.) before they are allocated or reallocated. This C2 requirement shall be implemented within the operating system. However, with the approval of the Senior Information Resources Management Official (SIRMO) and the Principal Accrediting Authority (PAA), the object reuse feature may be implemented at the application level. For those systems where object reuse cannot be implemented, a bureau or office may elect to use approved alternative methods (e.g., file

encryption) to satisfy this requirement. Waiver procedures for a permanent exemption to this feature of the C2 criteria are prescribed in paragraph 3.b.

3. *Exemption.*

a. A temporary exemption from the requirement to implement this policy by October 1, 1992, on existing AIS and networks or to incorporate the C2 provisions on new AIS and networks during the conceptual design stage may be granted jointly by the SIRMO and PAA. Such exceptions shall be based on the difficulty or cost of their execution and impairment to operations and mission effectiveness. Heads of bureaus and, for systems in the Departmental Offices, the Deputy Assistant Secretary (Administration) shall ensure continuous progress is made toward reducing or eliminating the circumstances causing the need for the temporary exemption.

b. Permanent exemptions to paragraph 2.d. will be approved jointly by the SIRMO and PAA. Permanent exemptions from the requirement to clear residual data will be based on a risk analysis to determine what damage, if any, is caused by the potential disclosure of SBU information to a user who does not have the same authorization to use some or all of the SBU information on the AIS or network. No exemption to paragraph 2.d. is required for stand-alone AIS when all users are authorized access to all the SBU information on the AIS. However, prior to disposition or repair of any such AIS, approved clearing and purging is required (see Section 4.F. of Chapter VI).

4. *Applicability to Microprocessors.*

a. *Networked Microprocessors.* If a network is accessed by a user who is not authorized to use all or some of the SBU information processed by or communicated over the network (or if the network is accessed by dial-up circuits), C2 protection shall be implemented on microprocessors running UNIX or other multi-user multitasking operating systems. Presently, there is no acceptable and affordable technology that provides C2 approved software protection for DOS-based microprocessors (of which large numbers of MS-DOS personal computers have been procured throughout the Department). There are, however, evaluated subsystems which create C2 functionality in MS-DOS systems (i.e., identification, authentication, audit, discretionary access control, and object reuse). Therefore, until there are C2 approved operating systems available for networked DOS-based microprocessors, the bureaus could utilize existing NSA evaluated subsystems (e.g., Watchdog Armor or PC/DACS).

b. *Stand-alone Microprocessors.* Evaluated subsystems, as described in paragraph 4.a., should be considered for use on stand-alone workstations when either of the following applies:

(1) SBU information is stored on the microprocessor and is shared by multiple users who do not have a need to know some or all of the SBU information stored on the system, or

(2) the workstation with stored SBU information is located in an uncontrolled area.

c. *Interim Measures.* Until C2 products are available, interim discretionary access control protection measures for microprocessors shall be implemented. These measures include, but are not limited to:

(1) physical security (controlling physical access to the terminal and purging system of SBU information when terminal is not in use);
(2) personnel security (background or integrity checks);
(3) communications security (encryption or guided media);
(4) manual user identification and authentication;
(5) procedural security;
(6) security training and awareness;
(7) contingency planning; and
(8) risk analysis.

When C2 technology is incorporated into the computer, the above countermeasures (to the extent warranted by the known or perceived threat or vulnerability) will still be required in the overall protection plan for the microprocessor.

5. *Responsibilities.*

a. *The Director, Office of Security,* shall:

(1) ensure compliance with this policy in the most cost-effective manner to include verifying that bureaus are making continuous progress toward reducing or eliminating the circumstances for requiring a temporary exemption from controlled access protection requirements;

(2) provide input to the five-year information systems planning call and review bureau information systems plans for compliance with this policy;

(3) review selected major solicitations of SBU AIS, as provided by the Deputy Assistant Secretary (Information Systems), to ensure compliance with this section and

to eliminate duplication or conflict with existing or planned security measures within Treasury; and

(4) provide reports on the results of reviews of bureau acquisitions and information systems plans to the Deputy Assistant Secretary (Information Systems).

b. *The Deputy Assistant Secretary (Information Systems)* shall:

(1) coordinate select major AIS and network solicitations with the Director, Office of Security, for systems security considerations;

(2) coordinate bureau five-year information systems plans with the Director, Office of Security, for systems security considerations; and

(3) ensure, through the annual computer security planning and reporting process, that bureaus report the status of their compliance with this section, including all temporary exemptions granted.

c. *The Deputy Assistant Secretary (Administration). Heads of Bureaus and the Inspector General* shall, as it relates to their respective bureaus and offices:

(1) take deliberate action, in the most cost-effective manner, to execute the provisions of this policy and ensure all existing Department of the Treasury systems shall be in compliance before October 1, 1992. This cost-effectiveness includes eliminating duplication of effort when upgrading security by ensuring that any AIS or network with user identification/authentication, key management, and encryption requirements utilize existing or planned Treasury resources to the maximum possible extent;

(2) ensure that all new AIS or networks that are intended to process, store, or communicate SBU information incorporate the provisions of this policy during the conceptual design phase; and

(3) report the status of compliance with this policy, including all temporary exemptions granted, to the Office of the Deputy Assistant Secretary (Information Systems) as part of the annual computer security planning and reporting process.

6. *Procedures for Controlled Access Protection*

a. *Introduction.*

(1) The PAA's (data owners) of the AIS and networks have the authority and ability to decide who, among the system's authorized users, will be permitted access to SBU information.

(2) The cost of strengthening the hardware or software features of your AIS or network may be prohibitive. You should document any exceptions to baseline requirements as explained in Section 7.A. of Chapter VI.

b. *C2 Criteria.*

(1) *Identification and Authentication.* The system shall require the users to identify themselves and to provide some proof that they are who they say they are. The most common means for accomplishing this are a user identification (user ID) and password. The system must protect authentication data so that it may not be accessed by an unauthorized user.

(2) *Audit.* The system shall be able to create, maintain, and protect from modification, unauthorized access, or destruction an audit trail of accesses to the resources it protects. The audit data shall be protected by the system so that read access to it is limited to those who are authorized for audit data. The system shall be able to record the following types of events: log on, log off, change of password, creation, deletion, opening, and closing of files, program initiation, and all actions by system operators, administrators, and security officers. For each recorded event, the audit record shall identify: date and time of the event, user, type of event, and the success or failure of the event. For log on, log off, and password change the origin of the request (e.g., terminal ID) shall be included in the audit record. For file related events the audit record shall include the file's name. The ISSO and NSO shall be able to selectively audit the actions of one or more users based on individual identity. Audit procedures shall be developed and coordinated with other internal control procedures required under OMB Circular A–123.

(3) *Discretionary Access Control.* The system shall define and control access between named users and system resources (e.g., files and programs). The system or network users shall be provided the capability to specify who (by individual user or users, group, etc.) may have access to their data. These controls are at the discretion of the user and the user may change them. The system or network will assure that users without that authorization are not allowed access to the data.

(4) *Object Reuse.* When a storage object (e.g., core area, disk file, etc.) is initially assigned, allocated, or reallocated to a system user, the system shall assure that it has been cleared.

c. *Assurance.* Given the security features in the preceding paragraphs, there must be some assurance that these features are properly implemented and protected from modification. For these systems and networks, assurance rests primarily with system and network testing. The security features including those of the system or net-

work shall be tested and found to work as claimed in the system and network documentation. Testing shall be done to assure that there are no obvious ways for an unauthorized user to bypass or otherwise defeat the security protection mechanisms of the system or network. Testing shall also include a search for obvious flaws that would allow violation of resource isolation, or that would permit unauthorized access to the audit or authentication data.

d. *Documentation.*

(1) *Security Features User's Guide.* A single summary, chapter, or manual in user documentation shall describe the security features provided by the system, guidelines on how to use them, and how they interact with one another.

(2) *Trusted Facility Manual.* A manual addressed to the system administrator, operator, and system security officer shall present cautions about functions and privileges that should be controlled when running a secure facility. The procedures for examining and maintaining the audit files as well as the detailed audit record structure for each type of audit event shall be given.

(3) *Test Documentation.* A document shall be provided that describes the test plan and results of the security features functional testing.

(4) *Design Documentation.* Documentation shall be available that provides a description of the developer's philosophy of protection and an explanation of how this philosophy is translated into the system. If the system's security features are composed of distinct modules, the interfaces between the modules shall be described.

e. *Conformance with Vendor Security Requirements and Guidelines.* When using vendor-supplied security products providing controlled access protection, the extent to which AIS and network management follows vendor security-related instructions accompanying the system software documentation will determine how effective the security product will be. In many cases, failure to follow these instructions will reduce an otherwise trusted system to a less secure state. To prevent this, bureau ISSO's and NSO's (or available security staff) are required to thoroughly review all vendor recommendations and requirements for the configuration of security controls and formally document the compliance or non-compliance of such requirements. If operational requirements dictate that such security recommendations cannot be complied with, management shall formally document this decision through the exception process. Such exceptions require the review and approval of the ISSO or NSO (or available security staff).

7. *Cancellation.* Treasury Directive 85–04, "Controlled Access. Protection (C2) for Automated Systems which Process Sensitive Unclassified Information," dated August 15, 1989, is superseded.

Certain information maintained by Treasury bureaus is subject to detailed controls on access. For example, the Customs Service maintains two interactive systems containing highly sensitive law enforcement and commercial information, the Treasury Enforcement Communications System (TECS) and the Automated Commercial System (ACS). Extensive security software requiring passwords limit access to both systems to employees authorized to make specific inquiries. A brief description of the system safeguards for ACS is attached as Attachment D. Another example are the restrictions on access to Financial Transaction Records maintained by FinCEN. See 31 C.F.R. § 103.51.

[CLERK'S NOTE.—Attachment D can be found in the Federal Register, Vol. 60, No. 217, Nov. 9, 1995, Notices, pp. 56763–56764.]

Question. In your opinion, do you feel the IRS has consistently applied the punishments for those employees caught browsing taxpayer files?

Answer. The IRS, like other Federal agencies, must consider several factors on a case by case basis when determining the appropriate penalty for misconduct. These factors include the employee's past disciplinary and performance history, length of service, job and grade level, potential for rehabilitation, the nature and seriousness of the offense, the consistency of the penalty with those imposed upon other employees, and any mitigating circumstances. Different penalties imposed in two cases for seemingly similar conduct may be the result of the weighing of these factors. It does not necessarily mean that an inappropriate penalty was imposed in one of the cases. In addition, many of these cases are appealed to the MSPB or through the negotiated grievance process. We understand that in some cases removals have been mitigated to lesser penalties by grievance arbitrators.

It is also important to emphasize, that not all suspected instances of browsing actually turn out to have been willful unauthorized inspection of taxpayer records.

Question. Can you explain, from Treasury's perspective, why IRS has been inconsistent in punishments?

Answer. The IRS is a large, administratively decentralized organization and discipline is administered at the local level. As noted above, each case presents its own

unique facts and circumstances and therefore different penalties may be deemed appropriate. This doesn't necessarily mean that the penalties are inconsistent. That being said, there is certainly room for improvement in terms of making sure that similar offenses receive similar treatment.

Question. Has snooping been a problem with any other Treasury agencies with their respective files.

Answer. "Browsing" is a term usually applied only to unauthorized access to taxpayer information. We are unaware of any similar instances of significant unauthorized access to sensitive systems or data at other Treasury bureaus.

Question. From an oversight perspective, do you feel that there are any roadblocks, legal or otherwise, keeping the IRS from consistently applying these punishments?

Answer. So long as this type of misconduct is subject to the same factors for evaluating the appropriateness of a penalty as other types of misconduct, there will likely be differences in penalty determinations because of the unique factors of each case. We will be evaluating whether additional legislation is needed to ensure that appropriate disciplinary penalties for browsing will be sustained.

PANEL 3

GENERAL ACCOUNTING OFFICE

STATEMENT OF RONA B. STILLMAN, CHIEF SCIENTIST, COMPUTERS AND TELECOMMUNICATIONS

ACCOMPANIED BY LYNDA WILLIS, DIRECTOR, TAX POLICY AND ADMINISTRATION

INTRODUCTION OF WITNESS

Senator CAMPBELL. Our third panel will be Dr. Rona B. Stillman, Chief Scientist for Computers and Telecommunications from the General Accounting Office. Dr. Stillman, if you would like to submit your complete written testimony, without objection that will be included in the record and you are welcome to abbreviate it if you would like to. And if you might identify the lady that is with you for the record.

Ms. STILLMAN. Thank you, Mr. Chairman. With me is Lynda Willis, our Director for Tax Policy and Administration. We appreciate the opportunity to testify on two very important matters concerning IRS: employees' unauthorized and improper perusal of confidential records, commonly known as browsing; and unjustified $1 billion-plus budget request for unspecified new systems development.

Browsing is not a new problem. For years Members of Congress, GAO, and others have raised concerns about IRS employees accessing taxpayer files for purposes unrelated to their jobs, for example, reading the files of celebrities or neighbors, or making unauthorized changes to taxpayer files such as initiating unauthorized refunds or tax abatements.

In response, the IRS has taken steps to detect and deter browsing. In particular, the IRS has developed and is using the electronic audit research log [EARL]. EARL is an automated tool which tries to identify suspicious patterns of employee activity by analyzing the audit trail of IDRS, the primary computer system IRS employees use to access and adjust taxpayer accounts. The IRS Commissioner has also instituted a zero tolerance browsing policy, and the agency has taken legal and disciplinary action against some employees caught browsing.

We found that despite these steps, IRS is still not effectively addressing browsing. First, EARL is limited in its ability to detect browsing. EARL only monitors employees using IDRS to access taxpayer data. It does not monitor the activities of employees using other automated systems to access taxpayer data, such as the distributed input system [DIS], the integrated collection system [ICS], or the totally integrated examination system [TIES].

In addition, EARL is not effective in distinguishing between browsing and legitimate work activity. It identifies so many poten-

tial browsing incidents that the subsequent manual review needed to find incidents of actual browsing is time consuming and difficult. IRS is evaluating options for enhancing EARL to enable it to better distinguish between legitimate activity and browsing.

Second, according to the 1996 report of the EARL executive steering committee, IRS does not consistently count the number of browsing cases and cannot assess the effectiveness of individual detection programs or of IRS detection efforts overall.

Further, browsing is inconsistently managed across IRS facilities. Facilities are inconsistent in reviewing and referring browsing incidents, inconsistent in applying penalties for browsing violations, and inconsistent in publicizing the outcomes of browsing cases to deter other employees from browsing.

In a report we issued last week, we recommended that the IRS completely and consistently monitor, record, and report the full extent of browsing for all systems that can be used to access taxpayer data. We also recommended that the Commissioner report the associated disciplinary action taken, and that these statistics, along with an assessment of its progress in eliminating browsing, be included with IRS' annual budget submission. IRS has stated its intention to implement these recommendations. We plan to monitor its progress in doing so.

I would now like to address IRS' budget request for new systems development in fiscal years 1998 and 1999. IRS has requested $131 million in fiscal year 1998 for new systems development and an additional $1 billion, $500 million in fiscal year 1998 and $500 million in fiscal year 1999 for an information technology investment account.

To ensure that Federal agencies like the IRS invest wisely in information technology, the Congress has passed several laws, including the Chief Financial Officers Act, the Government Performance and Results Act, and the Clinger-Cohen Act. These acts require that information technology investments be supported by convincing business case analyses showing mission-related benefits in excess of the money spent. They also require that disciplined processes be in place to manage the investment and to develop or acquire the systems.

IRS has not justified the $1.131 billion it has requested for fiscal years 1998 and 1999. In fact, IRS does not know how it will spend these funds or what benefits will be achieved. Instead IRS requested $131 million in fiscal year 1998 because that was about the same amount it received for new systems development in fiscal year 1997. And IRS requested an additional $1 billion in fiscal years 1998 and 1999 as a placeholder to ensure the availability of funding for yet-to-be-determined new systems development.

Moreover, although they are working to improve, IRS continues to suffer from the same fundamental and persistent management and technical weaknesses that we detailed in July 1995. It is precisely this kind of approach, that is, earmarking huge amounts of money without convincing supporting business rationale, and attempting to build and buy systems without disciplined systems development and acquisition processes, that have led to past modernization failures at IRS. And it is precisely this kind of approach that GPRA and the Clinger-Cohen Act are designed to preclude.

Therefore, consistent with the requirements of GPRA and the Clinger-Cohen Act, we believe that the Congress should not fund any significant IRS requests for information technology development until IRS provides convincing analytical business rationale, and until disciplined systems investment, development, and acquisition processes are in place.

Mr. Chairman, this concludes my statement. Lynda Willis and I will be happy to respond to any questions that you or the subcommittee members may have at this time.

PREPARED STATEMENT

Senator CAMPBELL. Thank you Ms. Stillman. We have your complete statement and it will be made part of the record.

[The statement follows:]

PREPARED STATEMENT OF DR. RONA B. STILLMAN

Mr. Chairman and Members of the Subcommittee: We appreciate the opportunity to testify on Internal Revenue Service (IRS) employees' electronic browsing of taxpayer files, as well as IRS' fiscal years 1998 and 1999 budget requests for tax systems modernization (TSM) development currently before this Subcommittee.

On April 8, 1997, we issued a report disclosing many serious computer security weaknesses at IRS.[1] These weaknesses make IRS computer resources and taxpayer data unnecessarily vulnerable to external threats, such as natural disasters and people with malicious intentions. They also expose taxpayer data to internal threats, such as employees accessing taxpayer files for purposes unrelated to their jobs (for example, reading the files of celebrities or neighbors) or making unauthorized changes to taxpayer data, either inadvertently or deliberately for personal gain (for example, to initiate unauthorized refunds or abatements of tax). Such unauthorized and improper browsing of taxpayer records has been the focus of considerable attention in recent years. Nevertheless, our report shows that IRS is not effectively addressing the problem. IRS still does not effectively monitor employee activity, accurately record browsing violations, consistently punish offenders, or widely publicize reports of incidents detected and penalties imposed.

Compounding IRS' serious and persistent computer security and employee browsing problems are equally serious and persistent TSM management and technical problems that must be corrected if IRS is to effectively invest in TSM. IRS is requesting $1.131 billion in fiscal years 1998 and 1999 for TSM development and deployment. However, IRS does not know how it will spend this $1.131 billion and has not yet corrected the management and technical problems that IRS has acknowledged have resulted in hundreds of millions of dollars being wasted thus far on TSM. This is inconsistent with the Government Performance and Results Act (GPRA) of 1993 and the Clinger-Cohen Act of 1996, which require that information technology investments be supported by convincing business case analyses and disciplined management and technical processes.

IRS IS NOT EFFECTIVELY ADDRESSING ELECTRONIC BROWSING

Employee electronic browsing of taxpayer records is a long-standing problem at IRS. We reported in September 1993 that IRS did not adequately (1) restrict access by computer support staff to computer programs and data files or (2) monitor the use of these resources by computer support staff and users.[2] As a result, personnel who did not need access to taxpayer data could read and possibly use this information for fraudulent purposes. Also, unauthorized changes could be made to taxpayer data, either inadvertently or deliberately for personal gain (for example, to initiate unauthorized refunds or abatements of tax). In August 1995, we reported that the Service still lacked sufficient safeguards to prevent or detect unauthorized browsing of taxpayer information.[3]

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[1] *IRS Systems Security: Tax Processing Operations and Data Still at Risk Due to Serious Weaknesses* (GAO/AIMD–97–49, April 8, 1997).

[2] *IRS Information Systems: Weaknesses Increase Risk of Fraud and Impair Reliability of Management Information* (GAO/AIMD–93–34, September 22, 1993).

[3] *Financial Audit: Examination of IRS' Fiscal Year 1994 Financial Statements* (GAO/AIMD–95–141, August 4, 1995).

To address employee browsing, IRS developed the Electronic Audit Research Log (EARL), an automated tool to monitor and detect browsing on the Integrated Data Retrieval System (IDRS).[4] IRS has also taken legal and disciplinary actions against employees caught browsing. However, as our April 1997 report points out, EARL has shortcomings that limit its ability to detect browsing. In addition, IRS does not have reliable, objective measures for determining whether or not the Service is making progress in reducing browsing. Further, IRS facilities inconsistently (1) review and refer incidents of employee browsing, (2) apply penalties for browsing violations, and (3) publicize the outcomes of browsing cases to deter other employees from browsing.

EARL's Ability to Detect Browsing Is Limited

EARL cannot detect all instances of browsing because it only monitors employees using IDRS. EARL does not monitor the activities of IRS employees using other systems, such as the Distributed Input System, the Integrated Collection System, and the Totally Integrated Examination System, which are also used to create, access, or modify taxpayer data. In addition, information systems personnel responsible for systems development and testing can browse taxpayer information on magnetic tapes, cartridges, and other files using system utility programs, such as the Spool Display and Search Facility,[5] which also are not monitored by EARL.

Further, EARL has some weaknesses that limit its ability to identify browsing by IDRS users. For example, because EARL is not effective in distinguishing between browsing activity and legitimate work activity, it identifies so many potential browsing incidents that a subsequent manual review to find incidents of actual browsing is time-consuming and difficult. IRS is evaluating options for developing a newer version of EARL that may better distinguish between legitimate activity and browsing.

IRS Progress in Reducing and Disciplining Browsing Cases Is Unclear

IRS' management information systems do not provide sufficient information to describe known browsing incidents precisely or to evaluate their severity consistently. IRS personnel refer potential browsing cases to either the Labor Relations or Internal Security units, each of which records information on these potential cases in its own case tracking system. However, neither system captures sufficient information to report on the total number of unauthorized accesses. For example, neither system contains enough information on each case to determine how many taxpayer accounts were inappropriately accessed or how many times each account was accessed. Without such information, IRS cannot measure whether it is making progress from year to year in reducing browsing.

A recent report by the IRS EARL Executive Steering Committee[6] shows that the number of browsing cases closed has fluctuated from a low of 521 in fiscal year 1991 to a high of 869 in fiscal year 1995.[7] However, the report concluded that the Service does not consistently count the number of browsing cases and that "it is difficult to assess what the detection programs are producing * * * or our overall effectiveness in identifying IDRS browsing."

Further, the committee reported that "the percentages of cases resulting in discipline has remained constant from year to year in spite of the Commissioner's 'zero tolerance' policy." IRS browsing data for fiscal years 1991 to 1995 show that the percentage of browsing cases resulting in IRS' three most severe categories of penalties (i.e., disciplinary action, separation, and resignation/retirement) has ranged between 23 and 34 percent, with an average of 29 percent.[8]

Browsing Incidents Are Reviewed, Referred, Disciplined, and Publicized Inconsistently

IRS processing facilities do not consistently review and refer potential browsing cases. The processing facilities responsible for monitoring browsing had different policies and procedures for identifying potential violations and referring them to the appropriate unit within IRS for investigation and action. For example, at one facility, the analysts who identify potential violations referred all of them to Internal

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[4] IDRS is the primary computer system IRS employees use to access and adjust taxpayer accounts.

[5] This utility enables a programmer to view a system's output, which may contain investigative or taxpayer information.

[6] *Electronic Audit Research Log (EARL) Executive Steering Committee Report* (September 30, 1996).

[7] We did not verify the accuracy and reliability of these data.

[8] The mix among these three categories has remained relatively constant each year with disciplinary action accounting for the vast majority of penalties.

Security, while staff at another facility sent some to Internal Security and the remainder to Labor Relations.

IRS has taken steps to improve the consistency of its review and referral process. In June 1996, it developed specific criteria for analysts to use when making referral decisions. A recent report by the EARL Executive Steering Committee stated that IRS had implemented these criteria nationwide. Because IRS was in the process of implementing these criteria during our work, we could not validate their implementation or effectiveness.

IRS facilities are not consistently disciplining employees caught browsing. After several IRS directors raised concerns that field offices were inconsistent in the types of discipline imposed in similar cases, IRS' Western Region analyzed fiscal year 1995 browsing cases for all its offices and found inconsistent treatment for similar types of offenses. For example, one employee who attempted to access his own account was given a written warning, while other employees in similar situations, from the same division, not only did not receive a written warning but were not counseled at all.

The EARL Executive Steering Committee reported widespread inconsistencies in the penalties imposed in browsing cases. For example, the committee's report showed that for fiscal year 1995, the percentage of browsing cases resulting in employee counseling ranged from a low of 0 percent at one facility to 77 percent at another. Similarly, the report showed that the percentage of cases resulting in removal ranged from 0 percent at one facility to 7 percent at another. For punishments other than counseling or removal (e.g., suspension), the range was between 10 percent and 86 percent.

IRS facilities did not consistently publicize the penalties assessed in browsing cases to deter such behavior. For example, we found that one facility never reported disciplinary actions. However, another facility reported the disciplinary outcomes of browsing cases in its monthly newsletter. By inconsistently and incompletely reporting on penalties assessed for employee browsing, IRS is missing an opportunity to more effectively deter such activity.

In summary, although IRS has taken some action to detect and deter browsing, it is still not effectively addressing this area of continuing concern because (1) it does not know the full extent of browsing and (2) it is addressing cases of browsing inconsistently. Because of this, our April report recommends that the IRS Commissioner (1) ensure that IRS completely and consistently monitors, records, and reports the full extent of electronic browsing; and (2) report IRS' progress in eliminating browsing in its annual budget submission. IRS has concurred with these recommendations and stated that it will implement them. We plan to monitor its progress in doing so.

FISCAL YEARS 1998 AND 1999 TSM BUDGET REQUESTS NOT JUSTIFIED

Recent legislation, such as GPRA and the Clinger-Cohen Act, require that information technology investments be supported by accurate cost data and convincing cost-benefit analyses. However, IRS' fiscal years 1998 and 1999 TSM budget requests, which combined total $1.131 billion, do not include credible, verifiable justifications. Exacerbating this problem is the fact that the systems modernization continues to be at risk due to uncorrected management and technical weaknesses[9] that we first reported in July 1995.[10] Such an approach to modernization spending has contributed to IRS' past modernization failures, and giving IRS more money under these circumstances not only undermines the objectives of GPRA and the Clinger-Cohen Act, but also increases the risk of more money being wasted.

Budget Request for Fiscal Year 1998 Systems Development Not Justified

The Clinger-Cohen Act, GPRA, and OMB Circular No. A–11 and supporting memoranda require that information technology investments be supported by accurate cost data and convincing cost-benefit analyses. However, IRS has not prepared such analyses to support its fiscal year 1998 request of $131 million for system de-

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[9] *GAO High Risk Series, IRS Management* (GAO/HR–97–8, February 1997); *Tax Systems Modernization: Actions Underway But Management and Technical Weaknesses Not Yet Corrected* (GAO/T–AIMD–96–165, September 10, 1996); *Tax Systems Modernization: Actions Underway But IRS Has Not Yet Corrected Management and Technical Weaknesses* (GAO/AIMD–95–106, June 7, 1996); *Tax Systems Modernization: Management and Technical Weaknesses Must Be Overcome To Achieve Success* (GAO/T–AIMD–96–75, March 26, 1996); and *Tax Systems Modernization: Management and Technical Weaknesses Must Be Corrected If Modernization Is to Succeed* (GAO/AIMD–95–156, July 26, 1995).

[10] *Tax Systems Modernization: Management and Technical Weaknesses Must Be Corrected If Modernization Is to Succeed* (GAO/AIMD–95–156, July 26, 1995).

velopment. The budget request states that IRS does not know how it plans to spend these funds because its modernization systems architecture and system deployment plan have not yet been finalized. These efforts are scheduled for completion in May 1997 and are intended to guide future systems development. According to IRS budget officials, $131 million was requested for fiscal year 1998 because it was approximately the same amount IRS received in fiscal year 1997 for system development.

No Justification to Support Information Technology Investments Account Requests for Fiscal Years 1998 and 1999

The administration, on IRS' behalf, is proposing to establish an Information Technology Investments Account to fund future modernization investments at IRS. It is seeking $1 billion–$500 million in each of fiscal years 1998 and 1999—for "yet-to-be-specified" development efforts. According to IRS' request, the funds are to support acquisition of new information systems, any expenditures from the account will be reviewed and approved by the Department of the Treasury's Modernization Management Board, and no funds will be obligated before July 1, 1998.

The Clinger-Cohen Act, GPRA, and OMB Circular No. A–11 and supporting memoranda require that, prior to requesting multiyear funding for capital asset acquisitions, agencies develop accurate, complete cost data and perform thorough analyses to justify the business need for the investment. For example, agencies need to show that needed investments (1) support a critical agency mission, (2) are justified by a life-cycle-based cost-benefit analysis, and (3) have cost, schedule, and performance goals.

IRS has not prepared such analyses for its fiscal years 1998 and 1999 investment account request. Instead, IRS and Treasury officials stated that, during executive-level discussions, they estimated that they would need about $2 billion over the next 5 years. This estimate was not based on analytical data or derived using formal cost estimating techniques. According to OMB officials responsible for IRS' budget submission, the request was reduced to $1 billion over 2 years because they perceived the lesser amount as being more palatable to the Congress. These officials also told us that they were not concerned about the precision of the estimate because their first priority is to "earmark funds" in the fiscal years 1998 and 1999 budgets so that funds will be available when IRS eventually determines how it wants to modernize its systems.

In 1995 we made over a dozen recommendations to the Commissioner of Internal Revenue to address systems modernization management and technical weaknesses. We reported in 1996 that IRS had initiated many activities to improve its modernization efforts, but had not yet fully implemented our recommendations.[11] Since that time, IRS has continued to take steps to address our recommendations and respond to congressional direction. While we recognize that there are ongoing actions intended to address these problems, we remain concerned. Much remains to be done to implement essential improvements in IRS' modernization efforts. IRS has not yet instituted disciplined processes for designing and developing new systems, has not yet completed its systems architecture, and has no justification for the funding it has requested.

Given IRS' poor track record delivering cost beneficial TSM systems, persisting weaknesses in both software development and acquisition capabilities, and the lack of justification and analyses for over $1 billion in proposed system expenditures, we believe that the Congress should not fund these requests until the management and technical weaknesses in IRS' modernization program are resolved and the required justifications are completed.

Mr. Chairman, this concludes my statement. Lynda Willis, Director, Tax Policy and Administration Issues, and I will be happy to respond to any questions you or Members of the Subcommittee might have at this time.

CAPABILITIES TO SNOOP OR BROWSE

Senator CAMPBELL. We are focusing on the IRS, but your comment did bring something to my mind. Do you know of any other agency of the Federal Government that has the capabilities to snoop or browse? I am only one step ahead of Senator Faircloth in understanding high-technology computers, but could another agency access IRS files to be able to snoop or browse?

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[11] *Tax Systems Modernization: Actions Underway But IRS Has Not Yet Corrected Management and Technical Weaknesses* (GAO/AIMD–95–106, June 7, 1996).

Ms. STILLMAN. IRS operational systems are not on open networks like Internet. They are on closed networks and access is limited to IRS employees.

Senator CAMPBELL. At what point did the GAO become aware that there was browsing of files?

Ms. WILLIS. Senator, I believe the first time that we reported to the Congress on browsing was in 1993 as a part of our audit of the IRS' 1992 financial statement.

Senator CAMPBELL. You notified them of your findings at that time?

Ms. WILLIS. Yes.

Senator CAMPBELL. What was their response at that time?

Ms. WILLIS. That it was a serious problem that needed to be corrected.

Senator CAMPBELL. Do you think they have taken sufficient actions to prevent it?

Ms. WILLIS. I will let Dr. Stillman answer that, but I think in part the fact that we are here today in 1996 with the same sorts of issues and the same sorts of problems indicate that if we have taken actions, they have not been adequate to address the underlying problem.

Ms. STILLMAN. That is exactly correct. They have taken some actions. They have developed the EARL system. They are using it to some extent on IDRS. The Commissioner has indicated that she considers it important that employees not browse and has issued a zero tolerance statement. None of these actions has been sufficient to stop browsing.

Senator CAMPBELL. As a person that does not understand a lot about sophisticated equipment, could anybody in the IRS do this, or does it require some kind of a special skill to access these records, or could anybody that is pretty good with computers do it?

Ms. STILLMAN. There are about 58,000 employees of IRS who use the IDRS system. You have to be a user of——

Senator CAMPBELL. Any one of those could do it?

Ms. STILLMAN. Yes.

Senator CAMPBELL. To anyone they wanted to pull up, a celebrity, a family, friend; is that right?

Ms. STILLMAN. As far as I know, they are not limited. If they have sufficient information to get the record, they are not limited.

Senator CAMPBELL. I appreciate it. I also have about a half a dozen questions that I would like to submit to you also, if you would get back to the committee with those in writing.

Ms. STILLMAN. We surely will.

Senator CAMPBELL. Thank you.

Senator Kohl.

Senator KOHL. Thank you very much, Mr. Chairman.

DEGREE OF SERIOUSNESS ABOUT BROWSING

Dr. Stillman, there is this concern that they are just not serious enough about it over there, about browsing. That it is not taken with the degree of seriousness that the American people and those of us who are sitting here today think it should be taken, and that is why we are where we are. That when you see that just 1 percent of those who were redlined for browsing have been discharged and

so on, you get the impression that it is business as usual and let us hope that this thing blows over.

Now you know more about it than we do. To what extent would you disagree with this appraisal?

Ms. STILLMAN. IRS itself in its 1996 Executive Steering Committee Report on EARL has said that the attitude of IRS employees is a problem, that they do not regard it seriously. That they do not believe they will be punished, and they do not believe that this activity is important.

Senator KOHL. So then in looking at how we change that culture you have to look at the management. It is management that has the responsibility for carrying out the rules and regulations, and for instilling a sense of discipline. Would you disagree with that?

Ms. STILLMAN. No, I certainly would not disagree with that. The values of an organization, what it believes are important is determined at the top.

Senator KOHL. Then what would you say about whomever the Deputy Secretary happens to be from one time to another—and we all understand the problem did not arise yesterday—and the Commissioner of the IRS? After all, these are the two top officials on a day-to-day basis who are involved in trying to run this organization properly. Would you say that that is where you have to start? I mean, any organization starts from the top and it moves down from that point. Would you disagree?

Ms. STILLMAN. No; I would not disagree. The Deputy Secretary has already testified that he believes that browsing is an important problem. And it is important that that belief be inculcated through the agency, and apparently they have not done that very well to date.

Senator KOHL. So much of the concern we have should be focused not only on those who are doing the browsing but on those who are supervising them clearly?

Ms. STILLMAN. It is clearly a total agency problem.

FUNDING FOR TSM PROJECT

Senator KOHL. Dr. Stillman, what should we do about the TSM project? In your opinion, should we continue to provide funding for it, and what would happen to the Nation's tax collection systems if we were to call a halt to the modernization efforts at this time?

Ms. STILLMAN. There is one very important myth that ought to be dispelled. That is that the money spent for developing new systems, for TSM new systems development, impacts current operation in the same year. It does not. Current operational systems are funded and operated separately. So in the discussion for TSM, there is considerable leeway in determining what we spend, and in what order.

What is important is that TSM or systems modernization spending, whatever its name is in the future, be done very differently than it was done in the past. That first, before money is spent, there be good, solid business plans and clear capabilities inside the organization to develop or acquire systems; that systems be developed or acquired in small increments, not in big lumps; that the small increments have relatively short timeframes and very clear performance measures so that before the next increment of invest-

ment is made it is clear that the previous increment has been worthwhile.

That is not the structure that TSM has exhibited in the past, but that should be the structure in the future.

Senator KOHL. Thank you.

Thank you, Mr. Chairman.

Senator CAMPBELL. Thank you for your very concise and clear answers, Doctor. I did have a couple of little questions. How does the IRS actions about misconduct—I read some of the numbers a while ago from this sheet I have here—how does that compare with other agencies? I know that this is just a kind of a rush in the IRS now, but other agencies certainly have some disciplinary problems too, and I was just wondering of those, how many of those are closed without action, or counseling, or disciplinary action? Do you have any idea if the IRS has an undue amount of disciplinary actions compared to other agencies?

Ms. STILLMAN. I personally have no idea.

Ms. WILLIS. Senator, we have not looked at that, but I think there are, obviously, a couple of agencies that you could look at, including Veterans Affairs, Social Security Administration, Medicare where you have files that similarly would be of interest to people. But I do not know of anyone who has actually gone in and compared what type of disciplinary actions those agencies have taken against employees found violating the confidentiality of the data on their systems.

Senator CAMPBELL. That is the only questions I have. I certainly appreciate you appearing today and I am sorry that we had to hold you up so long. Thank you, Dr. Stillman.

Ms. STILLMAN. Thank you so much. It has been a pleasure to be here.

PANEL 4

DEPARTMENT OF THE TREASURY

INTERNAL REVENUE SERVICE

STATEMENTS OF:

VALERIE LAU, INSPECTOR GENERAL
MARGARET MILNER RICHARDSON, COMMISSIONER

ACCOMPANIED BY DAVID MADER, CHIEF OF MANAGEMENT AND ADMINISTRATION

INTRODUCTION OF WITNESSES

Senator CAMPBELL. The last panel will be the Honorable Margaret Milner Richardson, Commissioner of Internal Revenue Service, and the Honorable Valerie Lau, Inspector General of the U.S. Department of the Treasury. If you folks would come forward. Why don't we go ahead and start with you, Valerie? You may proceed, Ms. LAU.

STATEMENT OF VALERIE LAU

Ms. LAU. Thank you, Mr. Chairman. Mr. Chairman, Senator Kohl, I am pleased to be here today to represent both the Treasury Office of Inspector General and the Internal Revenue Service's Inspection Service. With your permission, I would like to submit my prepared statement for the record and summarize my remarks.

Senator CAMPBELL. Without objection, your complete testimony will be in the record.

BROWSING OF TAX RECORDS BY IRS EMPLOYEES

Ms. LAU. Thank you. Today we are addressing a very serious issue: how to protect taxpayer information from electronic browsing by IRS employees. Unfortunately, as you have heard, this is not a new issue. There has been extensive oversight of this problem for the past 5 years. In fact, in 1992 IRS internal auditors were the first to bring the problem of employee browsing to light. In response, IRS management has taken action. However, the abuse continues.

So where do we go from here? I have three priorities to suggest. First, continued oversight by the IRS Chief Inspector and the Treasury Inspector General. Second, improved controls to prevent and detect abuse in current and future systems. And third, new laws that penalize browsing of taxpayer information by IRS employees.

You might be wondering what the Treasury's auditors and investigators have done to help tackle this problem. I am pleased to say we have done quite a bit and we plan to do more. IRS internal

auditors developed the first computer program to show the nature and extent of the browsing problem. That program was the impetus for the primary system, EARL, currently used to detect browsing.

Since then, the Chief Inspector's auditors and mine have continued to monitor and report on the IRS' progress in addressing this and other computer security problems. The Chief Inspector and I intend to maintain our focus on this area.

Since the auditors first identified the problem 5 years ago, the IRS' ability to detect browsing has improved. I believe the continuing audits and investigations I have described in my written statement have had a positive impact. But this does not mean that we can catch all abuses or scare away all of those who are intent on abusing the system.

The challenge of protecting taxpayers' information is a difficult one because many IRS employees have a legitimate need to access the data in order to perform their assigned duties. Unfortunately, some IRS employees have abused this authority.

The solutions? As others have mentioned, these include monitoring employee activity, educating employees, and taking consistent disciplinary action against those who abuse the taxpayers' trust.

What else can be done? Let me return to my three priorities. Continued oversight. I pledge that my office and that of the IRS Chief Inspector will continue to give our attention to this area. We welcome the support you have shown in addressing this issue.

Improved controls. Controls in the current IDRS system need to be further strengthened so they not only detect but also prevent abuses. In addition, controls are needed to monitor use of those systems not covered by detection systems such as EARL. The vulnerability of those systems which were identified by GAO need to be evaluated and given appropriate management attention. Prospectively, the next generation of systems should include controls that prevent, not just detect, unauthorized access.

Finally, stronger laws. We need to have laws in place that penalize employees who browse taxpayer information. I join the support for the proposed antibrowsing legislation introduced by Senator Glenn.

This concludes my remarks and I would be happy to answer any questions you have.

PREPARED STATEMENT

Senator CAMPBELL. Thank you, Ms. Lau. We have your complete statement and it will be made part of the record.

[The statement follows:]

PREPARED STATEMENT OF VALERIE LAU

Mr. Chairman and Members of the Committee: I am Valerie Lau, Inspector General of the Department of the Treasury. I am pleased to be here today to represent the Treasury Office of Inspector General (OIG) and the Internal Revenue Service's (IRS) Inspection Service. With your permission, I would like to submit my prepared statement for the record and take a few moments to summarize my remarks.

Today we are addressing a very serious issue, how to protect taxpayer information from electronic browsing by IRS employees. Unfortunately, this is not a new issue. There has been extensive oversight of this problem for the past 5 years. In fact, in 1992, IRS internal auditors were the first to bring the problem of employee browsing to light. In response, IRS management has taken action. However, the abuse continues. So, where do we go from here?

I have three priorities to suggest: (1) continued oversight by the IRS Chief Inspector and the Treasury Inspector General, (2) improved controls to prevent and detect abuse in current and future systems, and (3) new laws that penalize browsing of taxpayer information by IRS employees.

ROLE OF MY OFFICE WITH RESPECT TO IRS

As you know, the Treasury Office of Inspector General was established by the 1988 Amendments to the IG Act of 1978. Unlike most other IG's, however, the Amendments did not create a single audit and investigative entity for the Treasury Department. Specifically, IRS retained its internal investigative and internal audit functions under the direction of the IRS Chief Inspector. That office has primary responsibility for all direct audit and investigative activity at IRS. My office was assigned oversight responsibility.

The Amendments gave my office the authority to initiate, conduct and/or supervise audits of the IRS. However, with an audit staff of 160 to provide primary coverage for the remaining 11 Treasury bureaus and the added financial audit responsibilities under the Chief Financial Officer's Act, our capacity to do many audits at IRS is limited. In contrast, the Chief Inspector has approximately 460 auditors who focus solely on IRS programs and operations. Consequently, my office must rely on IRS Internal Audit for most of the audit coverage at IRS. In addition, GAO performs an extensive amount of audit work at the IRS, including the audit of IRS' financial statements.

The Amendments also changed the requirements for reporting the results of the Chief Inspector's audits and investigations. This work is routinely included in my office's Semiannual Report to the Congress. In fact, the Semiannual report has specifically included audit reports on computer security and browsing of sensitive taxpayer information since 1993.

IG AND CHIEF INSPECTOR COVERAGE

You might be wondering what the Treasury's auditors and investigators have done to help tackle this problem. I am pleased to say we have done quite a bit, and we plan to do more. IRS internal auditors developed the first computer program to show the nature and extent of the browsing problem. That program was the impetus for the primary system currently used to detect browsing. Since then, the Chief Inspector's auditors and mine have continued to monitor and report on the IRS' progress in addressing this and other computer security problems. The Chief Inspector and I intend to maintain our focus on this area.

Security over tax information has received extensive and continuous audit coverage from both the IRS Chief Inspector and my office. While the Chief Inspector's work has covered a broad range of data security issues, Integrated Data Retrieval System (IDRS) security and employee browsing of taxpayer information have been a particular focus.

The problems with IDRS were first reported by the Chief Inspector's office in 1992 in a report issued by the Southeast Region. The internal auditors developed computer utility programs which allowed them to analyze employee accesses to taxpayer accounts through IDRS and identify instances of unauthorized access and taxpayer browsing. In 1993, the Chief Inspector conducted a nationwide audit which confirmed that employee browsing was a nationwide problem that needed immediate attention.

In August 1993, the Senate Governmental Affairs Committee held a hearing focused on the Chief Inspector's findings. In response, the IRS developed the IDRS Privacy and Security Action Plan. That Plan included 35 action items to improve security over information processed by IDRS. The plan included 10 action items that were the responsibility of the IRS Inspection Service.

In 1994, at the request of Senator Glenn, the OIG reviewed the Service's progress in implementing the action plan. In 1996, we conducted a follow up review. In the second audit, we found that the Inspection Service had successfully completed its 10 Action Plan items for helping control IDRS abuse. While the IRS was making progress on the rest of the plan, several actions related to a key control mechanism, the Electronic Audit Research Log (EARL), were still not complete.

In 1996, the Chief Inspector issued a follow up audit report to their 1994 audit of EARL. That report noted that EARL still has only limited ability to identify browsing and that IRS had not yet developed procedures to assure that potential browsing cases are consistently reviewed and referred. These and other issues are currently being addressed by the EARL Executive Steering Committee.

The Chief Inspector and his staff have taken a proactive role in assisting IRS management in its efforts to improve security over IDRS. For example, the concept

for EARL was based in part on the audit utility programs developed by the auditors who first identified the IDRS browsing problem. Also, the EARL Executive Steering Committee was created to respond to problems with EARL identified by the IRS internal auditors. A member of the Chief Inspector's staff participates on that Committee. The Steering Committee's 1996 report contains numerous recommendations to improve the Service's implementation and use of EARL.

Finally, the Chief Inspector's auditors and investigators have worked together to identify indicators of abuse and have alerted IRS management through periodic Internal Audit Memorandums. Finally, the Chief Inspector's investigators have pursued management referrals of potential misuse.

We have reported this work in our Semiannual reports to the Congress. Since 1993, we have regularly reported IDRS security weaknesses as a major area of concern for IRS. The various audits performed by the Chief Inspector have also contributed to raising this problem to the level of a material weakness in the Department's Federal Manager's Financial Integrity Act Assurance letter.

CONCLUSIONS

Since the auditors first identified the problem five years ago, the IRS' ability to detect browsing has improved. I believe the continuing audits and investigations I have described have had a positive impact. But this does not mean we can catch all abuses or scare away those who are intent on abusing the system.

The challenge of protecting taxpayers' information is a difficult one, because many IRS employees have a legitimate need to access that data in order to perform their assigned duties. Unfortunately, some IRS employees have abused this authority. The solutions? As others have mentioned, these include monitoring employee activity, educating employees, and taking consistent disciplinary action against those who abuse the taxpayers' trust.

What else can be done? Let me return to the three priorities:

Continued Oversight.—I pledge that my office and that of the IRS Chief Inspector will continue to give our attention to this area. We welcome the support you have shown in addressing this issue.

Improved Controls.—Controls in the current IDRS system need to be further strengthened so they not only detect, but also prevent abuses. In addition, controls are also needed to monitor use of systems not covered by detection systems such as EARL. The vulnerability of those systems, identified by GAO, need to be evaluated and given appropriate management attention. Prospectively, the next generation of systems should include controls that prevent, not just detect, unauthorized access.

Stronger Laws.—We need to have laws in place that penalize employees who browse taxpayer information. I join the support for proposed anti-browsing legislation introduced by Senator Glenn.

This concludes my remarks. I will be happy to answer any questions you may have.

STATEMENT OF MARGARET MILNER RICHARDSON

Senator CAMPBELL. Before we start the questions, I would also welcome Ms. Richardson, and thank you for coming. The committee understands that you will be leaving Government shortly and pursuing other adventures.

Ms. RICHARDSON. Yes.

Senator CAMPBELL. We wish you well.

Ms. RICHARDSON. Thank you very much.

Senator CAMPBELL. One of the wonderful things will be, you do not appear any more.

Ms. RICHARDSON. I will miss those opportunities.

Senator CAMPBELL. We will take all of your testimony in the record and you are welcome to abbreviate your comments if you would like.

Ms. RICHARDSON. Thank you. Mr. Chairman and Senator Kohl, I want to thank you very much for giving us the opportunity to come today and talk about the Internal Revenue Service's policy toward the unauthorized access of tax information by IRS employees.

Our policy on the unauthorized access of taxpayer information is simple: Employees are prohibited from accessing information that is not needed to perform their official tax administration duties. They are permitted only to access information in order to carry out those duties, and there are no exceptions to that policy.

UNAUTHORIZED ACCESS TO TAX RECORDS

Shortly after I became Commissioner in May 1993, the IRS Chief Inspector brought to my attention results of an internal audit report that was looking into unauthorized access of taxpayer information by IRS employees. Since that time we have attempted to determine the scope of the problem, and we have also repeatedly emphasized to employees our policy against unauthorized access. The appendix to my testimony has a number of the communications and information we provided to employees.

We have tried to educate the employees, and also to enhance our efforts to detect and punish those who do conduct unauthorized access of taxpayer accounts. I have consistently stressed that we will not tolerate unauthorized access of taxpayer accounts. Although unauthorized access does not involve an unauthorized disclosure outside of the Service by an IRS employee of taxpayer information to a non-IRS employee, those actions around unauthorized accesses do undermine taxpayer confidence in the tax administration system.

In addition to the written communications to all employees, I have emphasized in virtually every meeting, teleconference, and every opportunity I have had to speak with employees that we cannot and will not tolerate such behavior. We have also tried to strengthen and clarify the penalties that would be imposed for violating our policy, and we have developed and supported legislative changes that would affirm criminal penalties for violations.

As I mentioned, we have taken a number of steps. For example, now when an employee logs onto our principal taxpayer data base, the integrated data retrieval system you heard about earlier, I am sure, a statement warns of possible prosecution for unauthorized use of the system. All new users of that data base receive training on privacy and security of tax information before they are ever entitled to access it. They are required to review and to sign an acknowledgement that they have read and understand the rules and the penalties for violations of the rules.

AUTOMATIC SECURITY PROGRAMS

We have also installed automatic detection programs that would monitor employees' actions and accesses to taxpayers' accounts to help us identify patterns of use and alert managers to potential misuse. There are about 1.5 billion accesses to that data base each year, and only a very small percentage of those accesses are potentially unauthorized.

Our electronic research analyzes the audit trails of each of the transactions and it is currently the key to our detection. We are continuing to refine that software so that we can more efficiently and effectively identify potential unauthorized accesses.

We are also working with state-of-the-art private sector organizations with the aim of identifying the feasibility of various security

prevention systems and the way these companies approach managing technology risks. Our ultimate goal is to better control access to information through up-front authorizations so that we will have to rely less on after-the-fact detection.

EMPLOYEE EDUCATION

Since 1993 we have also been engaged in a vigorous campaign to let employees know that unauthorized access will result in disciplinary action including removal. We have also charged our executives with supporting our commitment by making certain that they will provide consistency of discipline for unauthorized access of taxpayer information within their offices, that they will personally ensure that their employees receive the required training and orientation in their offices, and that they will take the opportunity to communicate our policy to explain what IDRS systems monitoring capabilities are about and what our policy is.

In January, we centralized responsibility for all privacy and security systems in the Office of System Standards and Evaluation. Recognizing the critical need to enforce Federal tax law and regulations on privacy and nondisclosure of confidential tax information that office was created to assume responsibility for establishing and enforcing standards and policies for all major security programs, including but not limited to data security.

With me today is Mr. Len Baptiste, who is sitting behind me and who is the National Director of that program. He came from the General Accounting Office where he had systems evaluation management experience and dealt with a number of security issues. We also hired William Hadesty to be the Director of Security Standards and Evaluation. Mr. Hadesty's private and public sector computer security experience includes over 10 years with the General Accounting Office where he led comprehensive computer security reviews at numerous Government agencies, including IRS.

DISCIPLINING UNAUTHORIZED ACCESS

Although a clear policy of communication and training and effective detection are important ways of institutionalizing our policies against unauthorized access, we also need strong disciplinary and judicial support to reinforce the seriousness and the consequences of violating our policy. In pursuing strong disciplinary actions before administrative tribunals, thus far the results have been mixed. For example, in cases where employees have improperly accessed information but not used such information for anyone's gain, financial gain or their detriment, those cases have not always been viewed by third parties as seriously as we believe that they should be.

Because nothing is more important to the operation of the tax system than protecting taxpayer information, I also today want to renew my request that Congress clarify the law and criminal sanctions. We continue to support the legislation that was marked up by the Ways and Means Committee last week and the similar legislation that was introduced in the Senate. I understand that there will be votes on both of those today and I want to indicate again, we do support that and hope they will pass.

The IRS has supported enactment of a criminal misdemeanor penalty for the willful, unauthorized inspection of returns and return information since it became apparent in 1994 that that was one of the features that we would need to make sure that our policy was carried out and taken seriously by employees as well as outsiders.

We developed two legislative proposals. The first recommended that we amend title 18 of the criminal code so that unauthorized inspection of computer records would be punishable as a misdemeanor. The second one recommended amending the Internal Revenue Code to provide a misdemeanor penalty for the unauthorized inspections of returns or return information in any medium, not just in computers. Senator Glenn, who I know testified earlier, introduced in the 104th Congress the Taxpayer Privacy Protection Act. We supported that then, and as I hope he indicated, we continue to support that.

We did, however, get through the Economic Espionage Act of 1996 which did amend title 18 to provide criminal penalties for anyone who accesses a computer. But the reason we feel that the legislation that is before Congress today is necessary is that we do want to clarify that the criminal sanctions for unauthorized access violates the Internal Revenue Code whether that information is in a computer or paper format. We also would like to have all of the confidentiality scheme respecting tax information in the Internal Revenue Code.

EXTENT OF PROBLEMS

I have stated in the past and I repeat that a single, any single unauthorized access is one too many. But I do believe that it is important that we put into context the numbers that were recently reported in the press. As I noted, there are 1.5 billion accesses annually on our data retrieval system. During 1996, 1,374 cases were identified as potential unauthorized accesses. Of that number, upon further investigation 411 were determined to have been authorized. Of the remaining 963 cases, disciplinary actions were taken in 862 cases, and 101 are still under review.

For example, also during 1995 and 1996, 120 cases were referred to U.S. Attorneys for prosecution, 15 were accepted, 12 were pending, and the rest were declined.

I want to reaffirm that we do understand as an organization the importance of safeguarding taxpayer information, and we also understand it is essential to the operation of our self-assessment system. As I said, we welcome the legislative changes and any other suggestions that you have that will help us address the problem of unauthorized access. Prevention is our ultimate goal.

Thank you, Mr. Chairman, and I would be happy to try to answer any questions you might have.

PREPARED STATEMENT

Senator CAMPBELL. Thank you, Ms. Richardson. We have your complete statement and it will be made part of the record.

[The statement follows:]

PREPARED STATEMENT OF MARGARET MILNER RICHARDSON

Mr. Chairman and Distinguished members of the Subcommittee. I appreciate the opportunity to be here today to discuss the Internal Revenue Service's policy toward the unauthorized access of tax information by IRS employees.

IRS' POLICY

The IRS' policy on unauthorized access of taxpayer information is simple: IRS employees are prohibited from accessing information not needed to perform their official tax administration duties. Unauthorized access of taxpayer information violates both privacy and disclosure rules. IRS employees are only permitted to access information in order to carry out their duties. There are no exceptions.

Shortly after I became Commissioner in May of 1993, the IRS Chief Inspector brought to my attention his concerns about unauthorized access of taxpayer information by IRS employees. Since that time, we have repeatedly emphasized to employees the IRS policy against unauthorized access of taxpayer information. (See Appendix.) The Service has also adopted procedures to educate employees about the policy and to detect and punish unauthorized access of taxpayer accounts.

I have consistently stressed both inside and outside the Service that the IRS does not tolerate unauthorized access of taxpayer accounts by IRS employees. In addition to written communications to all employees, I have consistently emphasized in virtually every meeting, teleconference or other opportunity I have had to speak to employees that the IRS cannot and will not tolerate such behavior.

The IRS has strengthened and clarified penalties to be imposed for violations of the Service's policy. Warning messages have also been added to the "sign-on" screens for employees with access to the principal database that employees use. Additional steps the IRS has taken to prevent unauthorized access include expanding the ability to detect unauthorized accesses through the Electronic Audit Research Log (EARL) on the Integrated Data Retrieval System (IDRS), sending memoranda to all employees reiterating the Service's policy, and developing and supporting legislative changes that affirm criminal penalties for violations.

The American federal income tax system is based upon self-assessment. Confidentiality of tax returns and tax return information is part of the foundation of the self-assessment system. Public confidence that the personal and financial information given to the IRS for tax administration purposes will be kept confidential is vital to that system. Although unauthorized access might not involve unauthorized disclosure by an IRS employee of taxpayer information to a non-IRS employee, such actions can undermine taxpayer confidence in the tax administration system.

IRS ACTIONS

Since 1993, the IRS has taken a number of steps to ensure that unauthorized access of taxpayer information by IRS employees does not occur. For example, each time an employee logs onto the taxpayer account data base (IDRS), a statement warns of possible prosecution for unauthorized use of the system. (See page 29 of Appendix.) All new users receive training on privacy and security of tax information before they are entitled to access the IDRS. They are required to review and sign an acknowledgment that they have read and understand the Automated Information Systems (AIS) Security Rules. (See pages 30 and 31 of Appendix.) The Service has also installed automated detection programs that monitor employees' actions and accesses to taxpayers' accounts, identify patterns of use, and alert managers to potential misuse.

The EARL system, which detects potential unauthorized accesses by analyzing the audit trails of each of the transactions on IDRS, is currently the key to detection. Because of the volume of transactions—about 1.5 billion annually—and the extremely small percentage of potential unauthorized accesses, the Service continues to refine the EARL software to more efficiently and effectively identify such potential unauthorized accesses. The IRS is also contacting "state-of-the-art" private sector organizations with the aim of identifying the feasibility of various security "prevention" systems and their approaches to managing technology risks. This approach will enable the Service to better control access to information through "up front" authorizations and ultimately rely less on after-the-fact detection. The feasibility of monitoring potential unauthorized accesses on systems other than IDRS that can be used to access taxpayer data is also being assessed. In this regard, the IRS has initiated efforts to contract for feasibility assessments of all systems that are used to access information (e.g., the Integrated Collection System and the Totally Integrated Examination System) to monitor the full extent of unauthorized accesses of

taxpayer information beyond IDRS and develop both prevention and detection measures.

Administratively, since 1993, the IRS has been engaged in a vigorous campaign to let employees know that unauthorized accesses will result in disciplinary action, including removal from the Service. As recently as last month, I issued a memorandum to all executives and employees stating:

> Unauthorized access to accounts, absent mitigating circumstances, is serious misconduct and would normally warrant removal. It is also a violation of 18 USC 1030 (fraud and related activity in connection with computers), which can result in criminal prosecution. (See page 2 of Appendix.)

At the same time, IRS executives were charged to support the organization's commitment to taxpayer privacy and the security of tax data by:

—Assessing personally on a periodic basis the consistency of discipline for unauthorized access of taxpayer information within their offices. Electronic Audit Log Research cases will now be sent directly to Heads of Offices, either initially or after investigation by Inspection for appropriate review and action.

—Personally ensuring that employees receive the required training and orientation within their offices; and

—Personally taking every opportunity to communicate the Service's expectations, and to explain IDRS systems monitoring capabilities, to all their employees. (See page 4 of Appendix.)

In January, the Service centralized responsibility for all privacy and systems security issues in the Office of Systems Standards and Evaluation (SSE). Recognizing the critical need to enforce federal law and regulations on privacy and non-disclosure of confidential tax information, SSE was created to assume responsibility for establishing and enforcing standards and policies for all major security programs including, but not limited to data security. In this regard, SSE provides IRS with a proactive, independent security group that is directly responsible for the adequacy and consistency of security over all IRS operations.

Mr. Len Baptiste was appointed as the National Director of SSE. His past GAO systems evaluation management experience, including security issues, will provide the leadership needed to carry out his new duties. In March 1997, Mr. William Hadesty was appointed as SSE's Director of Security Standards and Evaluations. Mr. Hadesty's private- and public-sector computer security experience includes over 10 years with the General Accounting Office where he led comprehensive computer security reviews at numerous government agencies, including his review of IRS facilities.

Although a clear policy, communication and training, and effective detection are important ways of institutionalizing a policy against unauthorized access, strong disciplinary and judicial support are essential to reinforce the seriousness and consequences of violating the policy. In pursuing strong disciplinary actions before administrative tribunals, the results thus far have been mixed. For example, the cases in which employees have improperly accessed information, but not used such information for anyone's gain or detriment, financial or otherwise, have not always been viewed as seriously as we believe they should be.

Because nothing is more important to the operation of the tax system than protecting taxpayer information, I want to renew my request that Congress clarify the law on criminal sanctions. The IRS continues to support the legislation marked up by the House Ways and Means Committee last week and similar legislation introduced in the Senate which would do just that.

The IRS has supported enactment of a criminal misdemeanor penalty for the willful, unauthorized inspection of returns and return information since 1994. In fact, in 1994, the IRS developed two legislative proposals on this issue. The first proposal recommended amending Title 18, the Criminal Code, so that unauthorized inspection of computer records would be punishable by a misdemeanor. The second proposal recommended amending the Internal Revenue Code to provide a misdemeanor penalty for unauthorized inspection of returns or return information in any medium.

In response to the IRS' request for legislation, Senator Glenn introduced S. 670, the "Taxpayer Privacy Protection Act," during the 104th Congress. It provided a misdemeanor penalty for unauthorized inspection. Unfortunately, Congress did not pass that legislation. However, Congress did pass, and the President signed, the Economic Espionage Act of 1996 (Public Law 104–294). This Act amended Title 18 to provide criminal penalties for anyone who intentionally accesses a computer without authorization, or exceeds authorized access, and thereby obtains information from any department or agency of the United States (18 USC 1030(a)(2)).

Because the Economic Espionage Act applies only to unauthorized access of computer records, the IRS continued to seek legislation clarifying the criminal sanctions

for unauthorized access or inspection of tax information in section 7213 of the Internal Revenue Code—whether that information is in computer or paper format—and ensuring that the entire confidentiality scheme respecting tax information and related enforcement mechanisms would be appropriately found in the Internal Revenue Code. Therefore, the IRS has worked with the staff of the Senate Governmental Affairs Committee to help develop the "Taxpayer Privacy Protection Act" introduced on April 8, 1997, by Senator Glenn. Similar legislation was introduced in the House of Representatives.

The House bill would apply to the unauthorized inspection of paper returns and related tax information. By clarifying the criminal sanctions for unauthorized inspection of tax information in section 7213 of the Internal Revenue Code, whether that information is in computer or paper format, the entire confidentiality scheme respecting tax information and related enforcement mechanisms would be found appropriately in the Internal Revenue Code. The Service fully supports such an amendment and believes that it would serve important tax administration objectives.

While I have stated in the past that one unauthorized access is one too many, I believe it is important to put the numbers that were recently reported in the press into some context. There are 1.5 billion accesses annually on IDRS. During fiscal year 1996 there were 1,374 cases that were identified as potential unauthorized accesses. Of that number, upon further investigation, 411 were determined to have been authorized. Of the remaining 963 cases, disciplinary actions were taken in 862 cases and 101 are still being reviewed.

I want to reaffirm that the Internal Revenue Service understands that safeguarding taxpayer information is essential to the operation of our country's self-assessment system. The Service welcomes the proposed legislative changes and hopes that you will assist us in addressing the problem of unauthorized access.

Mr. Chairman, this concludes my statement. I would be happy to respond to any questions.

[CLERK'S NOTE.—The appendix to Ms. Richardson's statement will not appear in the record, but is available for review in the subcommittee's files.]

ZERO TOLERANCE POLICY

Senator CAMPBELL. You have a zero tolerance policy. I would like you to explain this report of the disciplinary action taken. It says different numbers, but in 1995, 7 percent were cleared, 33 percent were closed without action. Does cleared mean somebody accused them of it and they did not really do it? Clarify that for me.

Ms. RICHARDSON. Yes; I apologize, could I also introduce David Mader who is the Chief of Management and Administration who is here with me today and who really oversees the disciplinary actions of employees and the employee relations part of the organization.

Senator CAMPBELL. OK, 33 percent were closed without action. What does that mean, there was not enough evidence? What is the difference between cleared and closed without action?

Mr. MADER. Mr. Chairman, the difference is on cases that are cleared there is no indication whatsoever that there was any inappropriate activity. On closed without action, the circumstances are not as clear and it is impossible for management to make a judgment as to whether the infraction occurred or did not occur.

Senator CAMPBELL. If they were cleared and there was no indication they were doing anything wrong, how did their names come up in the first place?

Ms. RICHARDSON. The electronic audit trail that we have really analyzes all of the—we have an audit trail for every access. But where there appear to be patterns, they will kick out a name and then they will manually have to be looked at to see whether or not the employee had authority to be in the data base.

Senator CAMPBELL. Under a zero tolerance policy, does that mean a first-time offender—because I notice you have some counseling—a first-time offender means they are out?

Ms. RICHARDSON. I am sorry, means they are?

Senator CAMPBELL. Under zero tolerance policy, does that mean the first time that they are accused and there is sufficient evidence, they are gone? They are fired or they are moved out.

Ms. RICHARDSON. In cases where we have tried to take very severe action the first time, we have had difficultly having that activity sustained in arbitration because of the mitigation factors. One of the things that we appreciate about the legislative history, that is with the bills that are being marked up, is an indication that those mitigation factors do not have to be taken into account in every single instance and that the presumption could be in favor of firing with mitigation to follow afterward, as opposed to having to start with progressive discipline which is typically the way the Federal personnel disciplinary system works. You are not typically fired for a first offense.

Senator CAMPBELL. It was reported that some employees who were browsing, snooping, they did not think it was wrong. I am sure they would think it was wrong if they were snooping around somebody's house, but they do not seem to recognize that it is the same thing. In the standards that the IRS has are there different standards that would allow people to assume that it was not wrong? I mean, could it be innocently done.

Ms. RICHARDSON. I cannot imagine how anybody could not understand today that it is wrong. It has been very clear—we have articulated it very clearly and without any equivocation. I did see a recent broadcast, with a former employee I might add, and despite the statement made—and I do not know firsthand why he would have concluded it was not wrong—but certainly in our efforts to prosecute him I assume he learned that it was wrong. But——

SAFEGUARDS AGAINST BROWSING

Senator CAMPBELL. Well, under our system of justice he will probably write a book and get royalties.

Mr. MADER. Mr. Chairman, if I could. The Commissioner mentioned some attachments to her testimony, and each employee that we put on these systems signs a form that acknowledges they understand the rules and regulations. If you would bear with me, I would just like to read a couple of those sentences.

Senator CAMPBELL. When they sign that form—let me ask you first, do they go through a seminar or some kind of instruction or something before?

Ms. RICHARDSON. Before anybody is ever authorized to access the system in the first place they have to be trained on the system, and part of the training includes understanding the privacy and disclosure rules and the authorization——

Mr. MADER. And then they need to sign this form. I would like to quote from this form.

I have read the automated information systems security rules on the reverse side of this form and understand the security requirements of the automated information systems and/or applications described on this form. I understand disciplinary action,

removal from the Service, and/or criminal prosecution may be taken based on violation of these rules.

Each and every employee who accesses these systems has to sign that. I do not know how clear——

Senator CAMPBELL. They go through that once, or are there refresher courses, or they do that periodically?

Mr. MADER. When they go on the system initially they, as the Commissioner mentioned, they have to sign this form and we maintain this form. Then there are periodic refresher and group meetings in which we continually reemphasize the privacy and security requirements of the Service.

Ms. RICHARDSON. Plus, as they sign on to the system each day there is a warning message on the system that indicates that unauthorized accesses will be subject to criminal prosecution.

Senator CAMPBELL. There is a clear explanation of the law?

Ms. RICHARDSON. Very clear.

Mr. MADER. Yes.

REPEAT BROWSING

Senator CAMPBELL. Under the chart I have, 32 percent—this year, 1995, the last year this was recorded, 32 percent were counseled. Of that, do you know what number did repeat browsing?

Mr. MADER. I do not know. I could submit that for the record.

TAX SYSTEMS MODERNIZATION

Senator CAMPBELL. Senator Kohl, if you would like to ask a couple of questions, I will try to think of a couple more here.

Senator KOHL. Thank you.

Commissioner Richardson, when we met yesterday you emphasized that the $3 billion that has been talked about as having been wasted in the tax systems modernization effort is not accurate; that there is a better and a clearer explanation that should be on the record. Would you like to take the time, along with your associate, to describe that a little bit today?

Ms. RICHARDSON. Certainly, Senator Kohl. I will also be happy to provide in more detail for the record where the moneys have been spent. I believe about $3.3 billion has been appropriated over a 10-year period for the tax systems modernization project. Our Chief Information Officer, Arthur Gross, testified at our appropriation hearing in the House and I know he will be here later on when you have the appropriation hearing to talk more specifically.

But he indicated that based on a review that we have conducted in the last 6 months that about $400 million of the $3.3 billion over the 10-year period was devoted to noncontinuing projects; to projects that we have abandoned either because they no longer will provide what we had hoped they would do, or we cannot afford them, various things like that. So the number that relates to things that we are no longer using or planning to use is about $400 million.

Of the $3 billion, we have spent quite a bit of that money on telecommunications infrastructure, site preparation in some of the service centers for upgrading our technology. I think I mentioned to you yesterday that we have this year over 4 million who filed their tax returns by telephone. We now have a web site that has

been visited over 100 million times since the first of the year, and we are able to route our telephone calls more effectively around the country.

So this filing season we are, hopefully, still at about 70, over 70 percent of the callers are being serviced. We have been able to do that at a time when we have moved from 70 telephone sites and 44 geographic areas to about 31 sites on our way down to 23. That has been made possible because of the upgrades to the telecommunications technology that we have employed that allow us to route the calls around the country and manage our traffic better.

Senator KOHL. Would you describe the TSM project, the tax systems modernization? That is a phrase that describes the investments that have been made over the past 10 years to modernize, upgrade, the IRS system to get it ready for tomorrow and the future. That is what this is all about.

Ms. RICHARDSON. That is what it is all about. We definitely need to modernize our technology. We are working on a plan right now, or are putting the finishing touches on a plan that hopefully will put in place an infrastructure and an incremental program that we can implement over the next few years that will help us provide better customer service and better compliance because we will have better access to taxpayer information.

Now that poses an additional issue or concern about the issue we are talking about here today, and that is how to protect that information. So one of the things that we are very concerned about, and one of the things that Mr. Baptiste and his colleagues were working on is our security architecture as well so that we can protect that information.

IRS TREATMENT OF BROWSERS

Senator KOHL. Let me ask you this question. Do you think with respect to the browsing problem which has now mushroomed and become something of a scandal, do you think that the IRS has been tough enough in trying to deal with those who are accused of browsing? If you had it to do over again, would you be tougher?

Ms. RICHARDSON. First, I think we need to put into perspective the notion that it has mushroomed. One of the things that I have learned, not just about this issue but about our efforts along with refund fraud, is that because we are detecting fraud or detecting a problem and the numbers are going up over some period of time does not necessarily mean that there are more instances. It may mean that you have better detection.

I believe in this case that that is exactly what the issue is. That we have a more effective way today of detecting the unauthorized access than we have ever had before. In fact, before 1993 we really had nothing except the reliance on people I guess reporting——

Ms. LAU. Like internal auditors.

Ms. RICHARDSON. Internal audit reports or people who would perhaps report something based on what their fellow employees were doing. We now have some automated systems that really aid us in detecting the unauthorized browsing. I do not think it is accurate to say that the instances have mushroomed. I think that we are better and wiser about detecting it.

I think that there are instances where I believe we probably should have taken or imposed tougher penalties. I do not know every specific instance. There are cases where mitigating instances have entered into it. But we have also taken some very tough actions and been thwarted in those actions in the courts—there are two very well known cases that have gotten publicity where we have prosecuted people. One where a jury acquitted the person because there was no financial gain or any other type of gain. The other was recently overturned by the second circuit because again, they felt the statutory basis for a criminal prosecution was not clear.

That sends a very strong message to the people who are trying to impose discipline both in the administrative process as well as within our organization, that maybe people on the outside are not taking our efforts as seriously as they could. That is, again, why we support this legislation.

QUALIFICATIONS FOR NEXT COMMISSIONER

Senator KOHL. Last question. Mrs. Richardson, with respect to your successor what are the qualifications, the three or four most important qualifications that we should look for in your successor?

Ms. RICHARDSON. I have often said probably the most important qualification is a sense of humor. But I also think that someone who has a lot of energy, who understands tax administration is terribly important. I think having management capabilities as well as experience is very useful as well. But I think that you also have to understand that this is a different environment that we are operating in in the Government. People like to say the Government should be run like a business, but there are some restrictions on people operating in the Government environment that are not always present in a business. I think those have to be taken into account as well.

We have a check and balance system with Congress in its oversight of an agency. But we also sometimes, as a result, have a board of directors of 535 people who may one day think that the priority should be compliance, and the next day customer service. There is a certain amount of schizophrenia, I think, among the people who have to deal in that environment. Frequently in the private sector your board of directors and you can establish the priorities for an organization and then move to try to accomplish those, your priorities. You do not always get to do that in a Government environment. I think understanding that will alleviate any frustrations that my successor might have, too.

Senator KOHL. Thank you, Ms. Richardson.

And thank you, Mr. Chairman.

PUNISHMENT FOR BROWSING

Senator CAMPBELL. Before I ask a question or two of Ms. Lau I wanted to get back just to one or two things you said. When you go through these charges, who is responsible for assessing the punishment? If it is criminal, are you to refer that to Justice, or how do you handle that?

Ms. RICHARDSON. Yes; if it is a criminal referral, it would be reviewed by our Chief Counsel's office and then referred to the Justice Department for further review.

Senator CAMPBELL. But if it is counseling, you do not do anything with Justice then?

Ms. RICHARDSON. Correct. If it is through the administrative process, the Justice Department is not really involved. We have for employees who are bargaining unit employees—I mean, that are represented by the union—they have the ability to go to arbitration over a disciplinary action.

Senator CAMPBELL. You also talked at some length about upgrading the devices that would identify browsing. This probably will be done after you leave. Do you have a timeframe that you think this might be done?

Ms. RICHARDSON. We are constantly working on ways to refine the audit trail system we have in place. But I think that the real key to being able to ultimately prevent people from getting in at all except on an authorized basis, the timetable for that really awaits our reconstructed data base as part of our tax systems modernization project. That is several years down the road.

Senator CAMPBELL. Several years you said?

Ms. RICHARDSON. Several years.

Senator CAMPBELL. Thank you. I appreciate your appearing. I know you were a little pressed for time this morning.

ROLE OF THE INSPECTOR GENERAL

Ms. Lau, could you explain your role in the investigation, since your office is really responsible for investigating waste and fraud and abuse? What was your relation to the investigations?

Ms. LAU. Related to these IDRS browsing issues?

Senator CAMPBELL. Yes.

Ms. LAU. One of the points that is in my written testimony is the statutory structure of my office in relation to the IRS. The IRS retains its own internal audit and internal investigative function. For most of these browsing cases, any involving criminality that would require further investigation would have been conducted by the Chief Inspector's office. My office has oversight responsibility for the Office of the Chief Inspector Treasury and investigative responsibility over senior Treasury officials and any Chief Inspector employees who might be involved.

Senator CAMPBELL. Does your office have any input on the counseling or policywriting or any of that with the IRS?

Ms. LAU. No; as a matter of course, we would not be involved in that aspect of their program.

Senator CAMPBELL. I think we will end up there. I have about half a dozen written questions I would like to submit to both of you. If you would get back to us with those for the committee, I would appreciate it.

REASONS FOR BROWSING

One other thing maybe, Ms. Lau. Did you see any kind of a common theme? I have heard today some people browse relatives, celebrities, political opponents, something of that nature. Did you spot anything that could be perceived as a theme?

Ms. LAU. I am sorry, I am not aware of any particular themes, but I would be happy to provide something for the record if we have identified such.

Senator CAMPBELL. Clearly, most of them did not do it because they were bored. They did it with some kind of intent apparently. Even though they might not have thought it was wrong, it was not accidental.

Ms. LAU. I think the reasons surely vary, as the dispositions of the cases would indicate.

Ms. RICHARDSON. Mr. Chairman, in many cases people are doing it for reasons they think are perfectly fine; they are helping a neighbor locate a former spouse or something like that. That is still unacceptable and cannot be done. So many of the cases are not just for idle curiosity but where people think they are actually performing a service; checking on a refund for a friend or neighbor just to make sure that it had not gotten misplaced.

Senator CAMPBELL. So when they do that, that is not supervised or cleared by a supervisor?

Ms. RICHARDSON. They are not authorized to be in the system to look at anything other than an official case to which they have been assigned. So if you were to ask if we could check on the status of your refund, that would not be appropriate. You can call a number and have it checked on, but you could not directly ask an IRS employee just to do that. If they looked into the system that would be considered browsing or the unauthorized access.

Senator CAMPBELL. That is gratifying to know. A few years ago I cosponsored the taxpayers' bill of rights and got audited about 2 weeks later. I know there was no connection, of course.

Ms. RICHARDSON. If we were that efficient, I would be very surprised.

SUBMITTED QUESTIONS

Senator CAMPBELL. I do appreciate you appearing today, and thank you very much. If you would both get back to us on the written questions, the subcommittee would appreciate that.

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

QUESTIONS SUBMITTED BY SENATOR CAMPBELL

CURRENT POLICY

Question. You've told GAO that you became aware of the browsing issue in 1993 and had taken steps to educate IRS employees to the illegality of the snooping. Do you believe that these measures have been effective?

Answer. In 1994, we developed mandatory training programs for managers and employees who had access to confidential taxpayer information. These materials fully covered the importance of only accessing taxpayer information employees had a need to review in connection with their tax administration responsibilities and covered the fact that the Service would not tolerate unauthorized access. We also provided one hour of time for all employees to review the "Interim Handbook of Employee Conduct and Ethical Behavior", Document 9335 (11–94). This Handbook covered the Declaration of Privacy Principles, which discussed access to tax information: "Principle 8: Browsing, or any unauthorized access of taxpayer information by any IRS employee, constitutes a serious breach of the confidentiality of that information and will not be tolerated."

Although these actions have been effective to a large degree, strong disciplinary and judicial support are essential to reinforce the seriousness and consequences of

violating the policy. In pursuing strong disciplinary actions before administrative tribunals, the results thus far have been mixed. For example, the cases in which employees have improperly accessed information, but not used such information for anyone's gain or detriment, financial or otherwise, have not always been viewed as seriously as we believe they should be.

Because nothing is more important to the operation of the tax system than protecting taxpayer information, I want to renew my request that Congress clarify the law on criminal sanctions. The IRS has supported enactment of a criminal misdemeanor penalty for the willful, unauthorized inspection of returns and return information since 1994. I support the "Taxpayer Privacy Protection Act" introduced by Senator Glenn on April 8, 1997 and similar legislation introduced in the House of Representatives.

Question. It has been reported that there are some employees who snooped and never thought it was wrong—I don't know if that scares you, but it should because it sure scares the taxpayers. Can you comment?

Answer. As I responded in the last question, since 1993, the IRS has taken a number of steps to ensure that unauthorized access of taxpayer information by IRS employees does not occur. However, it is essential that we have strong disciplinary and judicial support to reinforce the seriousness and consequences of violating the policy.

Question. Aside from the memorandums that the employees receive, do they receive any seminars or other instruction which explains the law to them and the consequences of browsing?

Answer. In each of our training courses for IDRS users we incorporate the materials on ethical principals and privacy of taxpayer information in the course book and instructor guide for mandatory coverage in the training session. They are required to review and sign an acknowledgment that they have read and understand the Automated Information Systems (AIS) Security Rules. We are in the process of fully publicizing our updated IDRS users training materials (revised in fiscal year 1996) for managers and employees and the requirements for its use. A videotape also accompanies the training materials which outlines in detail what accounts employees can access and the ramifications of accessing unauthorized data. We are also examining other methods to publicize our intolerance of any unauthorized access of information by employees or managers.

Question. Are these seminars mandatory in attendance?

Answer. Yes they are. Any manager who has employees who has access to data must attend the Manager's seminar and employees receive training either as a separate module or as a module incorporated into the training materials dealing with access to the data. As employees receive different modules dealing with access to information they must go through the materials again.

Question. What is the IRS' policy regarding those individuals who've been identified as browsing if they are caught browsing again?

Answer. On March 14, 1997, memos from the Commissioner and the Deputy Commissioner were sent to all employees and to all executives to reconfirm the IRS Policy on unauthorized accesses. The memo to all executives stated that we will discipline those who abuse taxpayer trust up to removal and including prosecution. There is no question that substantiated unauthorized access and disclosure are among the most serious breaches of trust with the taxpaying public that a Revenue Service employee can commit. Although, pursuant to the penalty guide, a range of administrative penalties can apply, the appropriate managerial response to any unauthorized access, absent any mitigating circumstances, is a proposal to remove.

Question. Can you provide the subcommittee with the numbers of IRS employees that have been caught browsing more than once? If you are unable to provide the subcommittee with this information, please state why the information is unavailable.

Answer. Although this information is embedded in the Automated Labor and Employee Relations Tracking System (ALERTS) it is not captured in this format and there is no easy way to retrieve it at this time. We are forming a task group to retrieve, analyze and compile this data.

IRS ACCOUNTABILITY

Question. Ms. Richardson, can you please provide for the committee how you intend to change the approach to the browsing problem since the IRS efforts have not been effective?

Answer. The IRS is reexamining system security looking at ways to tighten administration of discipline and improving employee education. We intend to central-

ize systems security and expect to be making substantial improvements over the next few years.

In the long run the best approach to dealing with browsing and other security risks is to implement the modernization blue-print which provides modernized controls over security accesses. The IRS is reexamining system wide security in the context of developing the overall modernized architecture. This approach will enable the Service to better control access to information through "up front" authorizations and ultimately rely less on the after-the-fact detection. In the interim, the feasibility of monitoring potential "browsing" on other systems that can be used to access taxpayer data is being assessed.

I want to reaffirm that the Internal Revenue Service (IRS) has long understood that safeguarding taxpayer information is essential to the operation of this country's self-assessment income tax system. That is why for many years the IRS has had in place policies and practices to protect the security and confidentiality of taxpayer information.

Question. Can you tell me why there is an inconsistency in the application of punishment when browsing has been confirmed?

Answer. Indeed there is a spectrum of discipline Servicewide which can be attributed to a number of factors. Discipline is administered at the local level in accordance with the Penalty Guide. The local office determines the severity of the infraction and then relies on established practices and the relevance of aggravating and/or mitigating factors (i.e., the nature and seriousness of the offense, the disciplinary record and the consistency of the penalty with those imposed upon other employees) commonly known as the "Douglas" factors. This constellation of factors makes every case unique and therefore requires the application of different penalties. We do intend to institute some form of National Office coordination to ensure that discipline across the nation is administered as evenly as possible.

FIXING THE PROBLEM

Question. Do you have a plan in place to secure taxpayers' electronic files from browsing? Please submit for the record.

Answer. Yes. The IRS is just finishing a new architecture for modernization along with a sequencing plan to describe how this functionality will be delivered. Within the architecture and sequencing plan, security and privacy have been addressed "head on" by a solid top-down design to prevent unauthorized employee activity and to detect anomalies or suspicious trends in employee activity. The new security architecture is designed to audit all activity which attempts accesses to taxpayer data. Additionally, a replacement for our current Electronic Audit Research Log (EARL) is being designed. The replacement will utilize advanced data mining techniques and examine more systems to detect trends of unauthorized activity.

Question. When do you expect to have this plan implemented?

Answer. These systems will be designed and deployed as part of the new architecture. Specific dates have not yet been determined. The EARL replacement may precede the first release of the modernized architecture, in order to increase our ability to detect unauthorized accesses on a wider range of systems. However, the replacement system will be developed in compliance with the new architecture.

Question. Time line and cost for this plan?

Answer. From the starting date of these projects, it is expected that these efforts will take approximately 48 months to build and deploy. The EARL replacement could be completed in 24 months. Final cost estimates have not been determined. These estimates, however, depend on the availability of appropriations.

Question. Which department would be responsible for this implementation?

Answer. Information Systems will be responsible for these efforts.

Question. In your estimation, does your current computer system provide an adequate level of protection?

Answer. Our current systems do provide some protection but improved levels of protection are needed.

Question. Can it be modified to include those systems which it does not currently monitor or would it require a new system?

Answer. We are currently examining opportunities and methods, which are not cost prohibitive, to increase the prevention and detection capabilities contained within our current systems.

Question. If a new system's needed in order to secure files, do you have any information for the subcommittee that details what would be needed to secure taxpayer files?

Answer. We are examining technologies such as file and password encryption and digital signatures using products such as RSA, Secure Sockets Layer, and S/MIME.

Question. Has IRS made any computer-based security improvements over the last ten years to limit the browsing of taxpayer files?

Answer. Yes. The IRS has made significant effort to deter browsing and to detect such activities. Efforts have included employing education and increased manual and automated audit analysis.

Question. Will computer security improvements be part of the architecture that you are planning to submit to Congress in mid-May?

Answer. Yes. The architecture will define an environment rich in identification and authentication (Identification and Authentication); access control; auditing and audit analysis; and public-private key encryption. Significant focus will be placed on real-time prevention of unauthorized employee activities which is augmented by a robust after-the-fact detection of unauthorized activity through a comprehensive audit analysis and reporting process.

Question. Were these improvements developed in-house by IRS or did you contract out your systems security?

Answer. Improvements made to date were developed by a combination of IRS security analysts in close coordination with the Integrated Support Contractor (ISC). Similarly, the new architecture was a joint effort between IRS architects, engineers, technical management and their ISC counterparts.

Question. Did the IRS look into purchasing security programs that were already available commercially?

Answer. Yes. In the past few years, coincidental with the open encryption standards, significant industry strides have been made with commercial off-the-shelf products which provide much of the functionality demanded by valid IRS requirements.

Question. Were any of these improvements made as part of the TSM project?

Answer. Yes. Version 1.0 and 2.0 of the formal Infrastructure design includes security design guidance which improves the existing security baseline.

IG INVESTIGATION OF IRS SNOOPING

Question. Can you explain your role in the investigation of those employees which have snooped into taxpayer files, since your office is responsible for investigating issues of waste, fraud, and abuse?

Answer. The first level of responsibility to evaluate indications of improper employee access rests with IRS management. Once indications of potential abuse have been identified, management then needs to do further work to determine if accesses are for legitimate business purposes or are improper browsing activity. If they determine that curiosity browsing has occurred, they coordinate with their labor relations staff and determine the appropriate disciplinary action to take. If there are indications of more serious misuse of taxpayer information, then the case is referred to the Chief Inspector's Office for investigation of any IRS employee below the senior management level (GS–14 and below). The Chief Inspector has primary internal investigative authority for IRS employees. However, my office oversees the IRS Inspection's investigative, as well as internal audit, operations. If the browsing involves senior IRS officials or a member of the Chief Inspector's Office, we will conduct the investigation. Since taxpayer browsing and other illegal activity on electronic files is primarily committed by lower graded IRS employees my office typically will not conduct the investigation.

Question. At what point do these cases come to your office?

Answer. My office would be involved in a browsing case where the suspected browser was an IRS senior management employee (GS–15 and above) or a member of the IRS Chief Inspector's staff, or in any browsing case having broad impact or far reaching implications.

Question. Is there any information which the IRS is currently unable to provide you which would help you in working on these cases?

Answer. There have not been many cases involving employee browsing that would have met the criteria to fall under my jurisdiction. Most cases involve IRS employees who, by virtue of their position, have access to taxpayers' accounts. Generally, senior level managers do not perform those types of tasks that would require their personal entry into the Integrated Data Retrieval System (IDRS). Therefore, the potential for this kind of violation reaching my office is minimal. Theoretically, there is no information in the possession of the IRS relative to this subject which cannot be shared with the Office of Inspector General. The Inspector General's authority for accessing confidential tax information in the possession of the Service is section 6103(h) (1) of the Internal Revenue Code and section 8C of the Inspector General Act of 1978, as amended.

Question. In your opinion, of the browsing cases that have occurred can (you) explain why 33 percent of the employees are counseled and only 1 percent are separated?

Answer. First, there is some apparent discrepancy in the statistics cited in your question and the information my office has obtained. We reviewed the IRS Commissioner's testimony of April 15, 1997 and the accompanying appendices that show the disposition of unauthorized access cases. According to that information, of the confirmed browsing cases in fiscal year 1996, 41 percent of employees were given oral or written counseling. Another 12 percent were separated (i.e., removed, resigned or retired). There is no doubt that the IRS needs to do a better job in taking action against employees who abuse the system. The issue of consistent application of disciplinary action has been reported as a problem in reports issued by the Chief Inspector and GAO. One further point regarding the 41 percent of employees who were counseled. It would be incorrect to assume that actual misuse was confirmed in these type cases. In some situations, employees were detected doing celebrity browsing or accessing ex-spouses, friends or family members' returns, and it was a first-time offense. Also, there are other cases where improper access is preliminarily indicated but management could not conclusively determine whether improper browsing occurred and therefore did not have a basis for taking action.

Question. Do you believe IRS has a "zero tolerance" policy?

Answer. I wholeheartedly endorse the Commissioner's policy and position on unauthorized accesses. IRS employees should only be permitted to access information in order to carry out their duties—with no exceptions. Although one unauthorized access is one too many, it is important to frame this issue with some contextual information. There are approximately 55,000 IRS employees who are granted access to the IDRS. IRS has reported that there are 1.5 billion accesses annually on the IDRS of which a small percentage involve potential unauthorized accesses. These are subsequently reviewed by IRS management to determine the extent and degree of possible misuse of taxpayer information. Of those remaining confirmed browsing cases, existing administrative procedures can require the IRS to use a progressive discipline system when dealing with bargaining unit employees. Also, pursuing strong disciplinary actions before the courts have produced mixed results. I believe the "zero tolerance" policy could be greatly enhanced by the proposed anti-browsing legislation introduced by Senator Glenn.

Question. Who is ultimately responsible for addressing browsing issues within your office?

Answer. My Office of Investigations would conduct investigations of any IRS senior level or Inspection employee involved in taxpayer information browsing. The Office is headed by the Assistant Inspector General for Investigations who reports to my Deputy Inspector General. Additionally, the Offices of Audit and Oversight routinely look at this issue from a program effectiveness perspective.

Question. As a result of your work on the browsing issue, have you identified weaknesses within the IRS anti-browsing program which could be improved or which are lacking entirely?

Answer. The Treasury Office of Inspector General has previously identified weaknesses within the IRS' anti-browsing program. We reviewed the program and issued a report in March 1996. We made seven recommendations in the report to help correct the problems identified during our review. Service management agreed with our findings and cited actions they had taken or planned for implementing our recommendations. We are also considering a follow-up audit on the taxpayer browsing issue in future audit work. The Chief Inspector's Office has also been proactive in their coverage of the browsing problem as well as identifying security weaknesses in computer systems other than the IDRS. In June 1996, the Chief Inspector's Office issued a report that concluded the Electronic Audit Research Log (EARL) system had limited ability to identify employee browsing; it needed consistent executive oversight and user involvement; and it needed a clear strategic direction to meet IRS objectives. Their review also found that there were no procedures to assure IRS management was consistently reviewing and referring potential browsing cases. In another report issued in September 1996 on IRS Small Scale Computer Systems, the Chief Inspector's Office reported that taxpayer data was vulnerable to disclosure, fraudulent manipulation, theft, and loss. Noteworthy about the security weaknesses in microcomputers and local area networks was that they were similarly cited in a report issued by the Chief Inspector's Office in August 1994.

Question. Have you communicated them and any other recommendations with Commissioner Richardson? Please provide the subcommittee an outline of your recommendations for the record.

Answer. We issued a report on March 29, 1996, to Commissioner Richardson presenting her with the results of our review. An outline of the seven recommendations are as follows:

Taxpayer Services needs to better comply with IRS' certification process.

Taxpayer Services should ensure that the uncompleted corrective action regarding audit trail requirements is undertaken.

Quality Assurance Division officials should follow up on and receive verification of corrective actions taken by program managers to ensure implementation.

Taxpayer Services should only accredit new security systems after the Quality Assurance Division has unconditionally certified them.

The EARL system officials need to complete the required procedures for system certification and accreditation as quickly as possible.

The EARL system officials should write new position descriptions commensurate with the responsibilities of the position and ensure that recommended 5-year background investigation updates are performed.

The Bureau Audit Recommendation Monitoring Officer should remind senior management officials of the importance of verifying the accuracy of corrective actions reported to the Inventory Tracking and Closure (ITC) system.

The Chief Inspector's report on the IRS EARL System was issued on June 21, 1996. The report recommended:

IRS management establish and document the strategic direction for EARL and ensure that users are involved at key points throughout the system's development.

Changes be made to management reporting systems to provide an effective feedback mechanism to show the resolution of browsing cases.

Development of procedures to increase the system's ability to identify browsing in a cost effective manner.

The Chief Inspector's report on Information Security Over IRS Small Scale Computer Systems was issued September 30, 1996. The report recommended:

IRS management perform another self-assessment and validation of IRS' systems.

Development of a plan that will budget for the costs of bringing IRS into compliance within two years.

The Federal Managers' Financial Integrity Act process identify systems with inadequate security capabilities or improper configurations and that future purchases meet minimum security requirements.

The Chief Inspector's Internal Audit Reports are issued to the Commissioner's Chief Officers who are responsible for taking action on, and responding to, the conditions and recommendations reported.

Question. Can you provide the subcommittee any insights why browsing is taking place? For example, do the employees not understand it is wrong or are they just bored?

Answer. According to the EARL Executive Committee Report issued on September 30, 1996, even the large number of oral and written communications as well as training over the past three years has failed to adequately explain that browsing data for personal curiosity is an unauthorized IDRS access and to impart the seriousness of employee browsing. It also found that some employees indicated that they browsed because they do not believe it was wrong and that there would be little or no consequence to them if they were caught. The perception was that the Service was not aggressively pursuing browsing violations.

Question. Without getting into specifics, do you find a common "theme" to the browsing activity itself, that is what are people looking up?

Answer. There is no common theme as to why employees browsed. Various reasons were given by the employees who were caught browsing. It appears to depend on what motivated the person to browse, for example, curiosity, financial gain, and fraud.

IG FINDINGS AND CURRENT LAW

Question. Of the cases your office has handled, did those employees found browsing taxpayer files fully understand the law?

Answer. We have conducted one investigation that involved a GS–15 manager. The investigation determined that access had occurred; however, the report of investigation was forwarded to IRS on December 31, 1996 for final review and disposition. Although the investigator did not specifically pose a question regarding the manager's knowledge of the privacy and disclosure issues, we believe the manager was aware of the browsing restrictions.

Question. What did the employees not understand?

Answer. The GS–15 manager did access the IDRS for taxpayer information indirectly by having subordinates perform the query, but did not believe, nor were we

able to prove, the data were unauthorized, misused, or divulged to any parties in violation of any IRS policy.

Question. What has been the most difficult legal hurdle you have found with your involvement in browsing cases?

Answer. The one investigation my office conducted did not reach the prosecutorial level. I believe that you may gain greater insight into any legal hurdles encountered in investigating browsing cases by directing your inquiry to the IRS' Office of Chief Counsel.

Question. Is there anything lacking in the current law which you see as hampering your ability to effectively handle browsing cases?

Answer. A major hurdle in deterring browsing is that the act of inspecting taxpayer data without disclosing information to a third party is not a criminal offense under existing statutes. I believe the proposed Taxpayer Privacy Protection Act introduced by Senator Glenn will enhance IRS efforts to strengthen the disciplinary actions against those employees who have browsed taxpayer records and/or returns. It clearly articulates the conditions and punishment for browsing. Again, however, your question can be more appropriately addressed by IRS' Chief Counsel's office and IRS management who have the primary jurisdiction of these cases.

QUESTIONS SUBMITTED BY SENATOR KOHL

IRS COMMISSIONER MARGARET RICHARDSON

Question. Last year as part of my Economic Espionage Act of 1996 we created criminal penalties from computer browsing without authorization or obtaining information from any Department or agency in the United States. Could you please explain how this law will impact snoopers of electronic records? Can I assume that as more and more returns are filed electronically this law will have greater impact on the snoopers?

Answer. The Internal Revenue Service supported the amendment to 18 U.S.C. § 1030(a)(2)(B) which provides criminal misdemeanor penalties for anyone who intentionally accesses a computer without authorization or who exceeds authorized access and thereby obtains information, including tax information, from any department or agency of the United States. We are hopeful that this legislation will serve as a significant deterrent to unauthorized computer access of taxpayer information by Internal Revenue Service employees and others. We note that 18 U.S.C. § 1030(a)(2)(B) has government-wide impact and as such you may also wish to direct your inquiry to the Department of Justice.

Question. Commissioner Richardson, yesterday when we met we discussed the $3 billion that is reported has been wasted on the TSM efforts. According to your explanation $3 billion was not wasted. Can you please clarify this issue so that we can all understand it?

Answer. Certainly Mr. Campbell. I believe about $3.3 billion has been appropriated over a 10-year period for the Tax Systems Modernization (TSM) project. Our Chief Information Officer, Arthur Gross, testified at our appropriation hearing in the House and indicated that, based on a review that we have conducted in the last six months, about $400 million of the $3.3 billion over the 10-year period was devoted to non-continuing projects; to projects that we have abandoned either because they no longer will provide what we had hoped they would do, or we cannot afford them; various things like that. So the number that related to things that we are no longer using or planning to use is about $400 million.

Of the $3 billion, we have spent quite a bit of that money on telecommunications infrastructure, and site preparation in some of the Service Centers for upgrading our technology. I believe I mentioned to you yesterday that over 4 million taxpayers have filed their tax returns by telephone. We now have a Web site that has been visited over 100 million times since the first of the year, and we are now able to route our telephone calls more effectively around the country.

So far this filing season we are still at over 70 percent of the callers being served. We have been able to do this at a time when we have moved from 70 telephone sites and 44 geographic areas to about 31 sites on our way down to 23. That has been made possible because of the upgrades to the telecommunications technology that we have employed that allow us to route the calls around the country and manage our traffic better.

We definitely need to modernize our technology. We are putting the finishing touches on a plan right now that hopefully will put in place an infrastructure and an incremental program that we can implement over the next few years that will

help us provide better customer service and better compliance because we will have better access to taxpayer information.

Now that poses an additional issue or concern about the issues we are talking about here today, and this is how to protect that information. So one of the things that we are very concerned about is our security architecture as well so that we can protect that information.

Question. Commissioner Richardson, you have indicated you will leave the IRS at the end of this tax year's filing season. I know you have guided the IRS through some difficult times. Thank you. Let me ask you—if you were going to interview potential candidates to replace you what characteristics would you look for on the candidates' resumes?

Answer. I think that the most important qualifications are someone who has a lot of energy and who understands tax administration. I think that having management capabilities as well as experience is very useful. But I think that you also have to understand that this is a different environment that we are operating in the Government. People like to say the Government should be run like a business, but there are some restrictions on people operating in the Government environment that are not always present in a business. I think those have to be taken into account as well.

We have a check and balance system with Congress in its oversight of an agency. But we also sometimes, as a result, have a board of directors of 535 people who may one day think that the priority should be compliance, and the next day, customer service. There is a certain amount of schizophrenia, I think, about the people who have to deal in that environment. Frequently in the private sector, you and your board of directors can establish the priorities for an organization and then move to try to accomplish those priorities. You do not always get to do that in a Government environment. I think understanding that will alleviate many frustrations that my successor might have too.

Question. In the past the appropriation committee has recommended cutting IRS budget request and fencing funds associated with its modernization efforts. Are there other methods the committee should be using to try and effect fundamental management changes within the IRS?

Answer. No.

Question. Do you feel that the 1515 incidents of "snooping" by IRS employees is an accurate representation of unauthorized browsing?

Answer. The 1515 incidents of "snooping" previously submitted for fiscal year 1994 and fiscal year 1995 reflect an approximate representation of the Service's unauthorized accesses for the years indicated. Recently we have reviewed and updated our database to include more detailed information concerning unauthorized accesses.

Question. Did the IRS ever consider implementing a service-wide policy regarding the handling of unauthorized browsing?

Answer. Yes, IRS has a number of policies in place to mitigate unauthorized access to taxpayer information. For example, Policy Statement P–1–1, which was approved on December 18, 1993, addresses taxpayer privacy rights. In part it states that the Service is "* * * fully committed to protecting the privacy rights of all taxpayers * * * Among the most basic of a taxpayer's privacy rights is an expectation that the Service will keep personal and financial information confidential * * * IRS employees will perform their duties in a manner that will recognize and enhance individuals' rights of privacy and will ensure that their activities are consistent with law, regulations, and good administrative practice."

In January 1995, I sent a memorandum to all IRS employees about the information security policy which is intended to ensure "* * * that the Service complies with the applicable guidance from public laws, regulations, and directives * * * that taxpayer and other sensitive information is protected commensurate with the risk and magnitude of the harm that would result from inappropriate use * * * that taxpayer and other sensitive information is used only for necessary and lawful purposes."

In March of this year, I sent another memorandum to all employees reminding them that IRS employees are "prohibited from accessing information not needed to perform official duties. Unauthorized access to accounts is a fundamental violation of the public trust in the confidentiality of returns and returns information * * * It violates both privacy and disclosure rules and may result in removal from the Service and criminal prosecution."

Question. In your June 6, 1996 testimony before the Senate Committee on Governmental Affairs you indicated that the new systems developed to better control access to taxpayer records misuse were not always executed in accordance with re-

quired procedures. Since that time are you aware of the IRS taking any efforts to produce consistent guidelines for application of these systems?

Answer. IRS Internal Audit has been looking into the Service's efforts to ensure information systems are adequately secured. In their draft audit report dated January 21, 1997, they found that the security certification process does not always result in a complete and/or independent evaluation of security controls prior to issuance of a certification. Further, the Service's efforts to identify all sensitive computer systems have not been effective. As a result of their recommendations, procedures should be developed to ensure consistency in the certification process. In addition, the EARL Executive Steering Committee was charted by the IRS to address inconsistencies and concerns about how the EARL systems were being administered and the effectiveness of the EARL programs. The Committee issued a report in September 1996, which contained many recommendations to improve the EARL system. Lastly, GAO reviewed the IRS systems security in December 1996 and found that pervasive weaknesses persist in security controls intended to safeguard IRS computer systems, data, and facilities and tax processing operations from the risk of disruption and taxpayer data from the risk of unauthorized use, modification and destruction. Their recommendations, when implemented, will also result in consistent guidelines for application of the systems.

Question. You also reported that corrective actions necessary for implementing audit recommendations were sometimes reported closed before all corrective actions were taken. Have you, in conversations with the Office of the Chief Inspector elsewhere been provided with any evidence that this situation has been corrected?

Answer. In our report of March 29, 1996, we made a recommendation that senior management officials should be reminded of the importance of verifying the accuracy of corrective actions reported to the ITC system. As a response to our recommendation, the Management Controls Office implemented new procedures tightening reporting controls. For every new audit, a memorandum is issued to the responsible Chief Officer, detailing how to report their corrective actions. In addition, the Chief Officer must sign a memorandum verifying concurrence with what is reported to them.

Question. Since Treasury has now taken on greater responsibilities as they relate to the IRS and the Modernization Management Board will the role of the IG's office be heightened?

Answer. I believe that more vigilant oversight is needed by the Department over the IRS, particularly with respect to renewed efforts to develop the Tax Systems Modernization (TSM) architecture. I plan to do this through my participation as an advisory member of the Modernization Management Board (MMB). Back in 1995, and before the establishment of the MMB, my office issued a report on the Department's oversight of the IRS' TSM Program. We concluded that the Department's efforts at that time were not effective to oversee a project the size and complexity of TSM. We have recently initiated a follow-up audit to assess the Department's and IRS' revised approach, newly created internal structures, and oversight mechanisms that have been put in place since our report was issued. To this end, we will also be coordinating with GAO and the IRS' Chief Inspector's office to plan the appropriate audit coverage.

Question. Now that the separate oversight functions within the Inspector General and the Chief Inspector's Office have been in operation for over 10 years are there other options (such as having the Chief Inspector report to the Treasury Deputy Secretary as opposed to the IRS Commissioner) that should be considered? If consideration was given to reorganizing this reporting structure how would taxpayer privacy issues be addressed?

Answer. We have worked with the Chief Inspector's Office within the existing framework. I do not feel my ability to manage the internal audit resources in the Treasury is compromised by the current arrangement. We have an understanding with the Chief Inspector that they will work through my office whenever they have an issue where they cannot obtain adequate resolution with IRS management. Regardless of the reporting structure of any reorganization, access to taxpayer information and privacy must be protected under IRC 6103. Even though my office currently does not have the same level of access that the IRS Chief Inspector's Office has, we would be able to provide the same level of protection that is provided by the Chief Inspector's Office, if the need arose.

Question. It is my understanding that the internal audit functions of the law enforcement agencies were transferred to the Inspector General's Office with internal investigations remained within the agency. Could and/or should that structure be duplicated in the IRS?

Answer. As you know, the Treasury Office of Inspector General was established by the 1988 Amendments to the IG Act of 1978. Unlike most other IGs, however,

the Amendments did not create a single audit and investigative entity for the Treasury Department. Specifically, IRS retained its internal investigative and internal audit functions under the direction of the IRS Chief Inspector. That office has primary responsibility for all direct audit and investigative activity at IRS. My office was assigned oversight responsibility. As specified by Section 8C of the Inspector General Act, I can initiate, conduct and supervise internal audits of the IRS. My authority to conduct any review in the IRS that I deem appropriate has never been challenged. Further, Treasury Order 114–01 gives me the authority, if a need arises, to detail personnel from the IRS Inspection Service to conduct audits or investigations under my direct supervision. However, with an audit staff of 160 to provide primary coverage for the remaining 11 Treasury bureaus and the added financial audit responsibilities under the Chief Financial Officer's Act, our capacity to do many audits at IRS is limited. In contrast, the Chief Inspector has 445 auditors who focus solely on IRS programs and operations. Consequently, my office must rely on IRS Internal Audit for most of the audit coverage at IRS. Having that body of work performed by resources under my direct control would have the immediate effect of raising the level of independence.

SUBCOMMITTEE RECESS

Senator CAMPBELL. With that, the subcommittee will recess. Thank you.

[Whereupon, at 12:15 p.m., Tuesday, April 15, the subcommittee was recessed, to reconvene at 9:32 a.m., Thursday, April 17.]

MATERIAL SUBMITTED SUBSEQUENT TO CONCLUSION OF HEARING

[CLERK'S NOTE.—The following material was not presented at the hearing, but was submitted to the subcommittee for inclusion in the record subsequent to the hearing:]

LETTER FROM JEFF THOMPSON, CHIEF OF GOVERNMENT RELATIONS FOR DON NOVEY, STATE PRESIDENT, CALIFORNIA CORRECTIONAL PEACE OFFICERS ASSOCIATION

SACRAMENTO, CA, *April 23, 1997.*

Hon. BEN KNIGHTHORSE CAMPBELL,
Subcommittee on Treasury, Postal Service and General Government,
Washington, DC.

DEAR SENATOR CAMPBELL: Thank you for the opportunity to submit this letter for inclusion in the hearing record on IRS employees' misuse of taxpayer records held on April 15, 1997. I am submitting this letter on behalf of over 25,000 members of the California Correctional Peace Officers Association (CCPOA), all dedicated correctional officers and parole agents in the state of California, to highlight an issue of grave importance to our members and law enforcement in general.

It has come to our attention that parolees and individuals that have served time in prison for felony convictions have been and are able to work at Internal Revenue Service (IRS) field offices and access sensitive tax information. The fact that convicted felons and parolees have access, whether authorized or not, to the addresses and social security numbers of officers and their families, as well as information on personal assets and income, pose a serious security threat. With such information, a revenge-seeking criminal (Particularly a member of a prison gang) could cause serious harm to an officer and his or her family.

We are aware that current federal law and legislation moving in Congress would make it illegal and impose criminal penalties for any IRS employee to access information on computers, tax forms, and any paperwork without specific authorization to do so. We support this legislation. However, we believe more needs to be done to protect officers and their families.

One problem with this law is that there is no way to prevent an individual from accessing unauthorized information. Based on discussions with the Fresno IRS Service Center, Internal Security at IRS needs specific information, such as the name of the employee and his or her social security number, in order to investigate any alleged misconduct on the part of an IRS employee. In other words, if an IRS employee was accessing information and was unauthorized to do so, an officer would have to know that this was occurring, who was doing it, and report it to IRS Internal Security before an investigation would occur. It would be impossible for an officer to prevent such misconduct from occurring in the first place. Indeed, an officer could only react to such misconduct if an IRS employee either informed the officer that he or she had accessed information or actually used such information against the officer.

The second problem is that IRS employees are oftentimes working before a FBI fingerprint clearance has been completed. After an employee is hired by the IRS, he or she must fill out a background check, which could take months to complete. If an individual has lied on the background form, hopefully IRS would eventually terminate the employee. During the interim however, the IRS employee could work for months and have inappropriate and potentially damaging access to our peace officers' personal information.

To provide you with one example, Inmate Ramirez (W–31599, A3–135L) served time in state prison and was released on parole. Within one year, Inmate Ramirez violated her parole and was returned to prison. At that time, she informed a correctional officer that she worked for the Internal Revenue Service while on parole. According to the parole offices in Fresno County, parolees would not be allowed to work at the IRS. However, inmate Ramirez did not tell her parole agent that she

was working for the IRS and her file indicates that she was unemployed during her parole period. Inmate Ramirez was able to tell a correctional officer detailed information on the income and assets of several officers at four facilities in Central California, information that was clearly accessed at the IRS Fresno Service Center.

Given the sensitive information IRS employees have access to and the safety issues facing law enforcement personnel and their families, we believe current federal law needs to be strengthened. We respectfully request you to introduce legislation that would prohibit any individual who has been incarcerated for a felony conviction within the past ten years to be denied employment by the IRS. Further, we believe such legislation should include a provision mandating that an employee not begin employment at the IRS until the FBI fingerprint clearance and the background check has been completed.

We thank you for your consideration of this important matter.

Sincerely,

JEFF THOMPSON.

LETTER FROM ROBERT M. TOBIAS, NATIONAL PRESIDENT, NATIONAL TREASURY EMPLOYEES UNION

WASHINGTON, DC, *May 5, 1997.*

Hon. BEN NIGHTHORSE CAMPBELL,
Subcommittee on Treasury, Postal Service and General Government, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to your request of April 22, 1997, requesting written responses to hearing questions from the National Treasury Employees Union (NTEU), I hereby submit our responses to your questions.

Sincerely,

ROBERT M. TOBIAS.

Attachment.

QUESTIONS SUBMITTED BY SENATOR CAMPBELL

TAXPAYER FILE BROWSING

Question. In your testimony submitted for the Record, you mention the "budget cuts and policy," "Congressional flip-flops * * * of the Earned Income Tax Credit," "downsizing," "furloughs" and "contracting out" all have a negative impact and are part of the IRS culture. Please explain how these examples could in any way lead employees to believe that there is really nothing wrong with browsing taxpayer files.

Answer. My statements do not in any way suggest that poor morale should excuse any unauthorized actions. My comments were meant only to suggest that poor employee morale and employee frustration over constantly changing priorities may contribute to confusion as to how seriously something like the "zero tolerance" policy is to be taken. I agree that browsing is a very serious issue and will continue to make that clear to members of my union.

Question. Given NTEU's opposition to downsizing and Reductions in Force at IRS, based upon the argument that all employees are necessary to adequately process taxpayer information, how would you suggest I explain to constituents that IRS employees have time to snoop in taxpayer files?

Answer. NTEU agrees with the IRS and GAO that browsers are doing something wrong and should be punished. More than 99 percent of IRS workers work hard and respect taxpayer privacy. My suggested constituent response would advise the constituent that the IRS caught and disciplined the individuals who improperly accessed these records. The IRS fired some employees and forced others to resign or retire. I believe it is more important to emphasize that these cases do not reflect the actions of the more than 102,000 honest, hard working IRS workers who diligently respect the privacy of more than 250 million taxpayer returns and other records the IRS processes each year.

I would also suggest that your response mention that some of these cases involve improper access of taxpayer files by employees whom friends, neighbors or relatives asked to check on the status of their refunds and other information. This conduct does violate IRS policy and should not be tolerated, but should not be viewed as "snooping" into private tax records.

Question. During fiscal year 1997's Treasury Appropriation bill one of the biggest complaints registered about outsourcing debt collection to the private sector was that the security of the taxpayer files would be potentially at risk. In light of the

recent GAO report on IRS employees browsing, please respond for the record how you would characterize the outsourcing of debt collection vis-a-vis recent GAO revelations.

Answer. Besides the far greater risk of unauthorized disclosure of taxpayer data, the outsourcing of tax debt collection could result in decreased taxpayer compliance and higher costs.

First, effective use by the IRS of existing computer security technology could prevent nearly all unauthorized access. Second, the GAO did not find any evidence showing that the IRS employees who improperly accessed a taxpayer's tax filings were motivated by financial considerations. Instead, the GAO report only states that "unauthorized changes could be made to taxpayer data * * * for personal gain." Third, taxpayers' data has great economic value to many individuals and businesses. Just a few instances of fraudulent use of that information could undermine our currently high rate of voluntary compliance. Fourth, voluntary compliance is the key to cost-effective tax administration in a democratic government. Both the IRS and NTEU believe that private debt collection would compromise voluntary compliance due to the manner and means of collection. Lastly, the current outsourcing of processing in the State of New York provides ample caution that private debt collection would probably not lower tax collection costs.

The State of New York paid all of its contractor's capital startup costs, including new computer hardware, and guaranteed the company an exorbitant 20 percent profit. Despite the financial and technological edge, this contractor still processes far fewer returns and refunds much slower than current IRS employees using very antiquated computer systems.

Question. Does your organization have a Code of Ethics?

Answer. Both the Department of the Treasury and the Internal Revenue Service have strict Codes of Ethics. These Codes cover NTEU members. NTEU has no code covering these federal employees.

Question. Since your members work for the Department of the Treasury, I would say that many of them deal with sensitive information in some function of their job. Does your Code of Ethics contain anything that deals with employee handling of sensitive information?

Answer. Not Applicable. Please refer to the answer of the previous question.

Question. Although this issue could not be characterized as widespread, do you feel there are any measures that Congress can take that would better protect those employees who do not violate this law or its intent?

Answer. Again, NTEU supports improved technology that will provide more computer security safeguards. Contrary to the assertions of Commissioner Richardson, our members report that they believe they do not receive adequate training. NTEU members also note that is sometimes difficult to balance demands for greater customer service with other privacy priorities. In other circumstances, some IRS employees are responsible for creating taxpayer compliance analysis models that they cannot develop without inspecting a wide range of tax records. Especially where the IRS may impose a criminal sanction, very clear lines must be drawn to distinguish authorized inspection from unauthorized inspection.

Question. Do you feel there is anything we can do better in order to prevent this practice from recurring, with an eye on maintaining a balance between the things the employees must endure and maintaining an adequate level of security and protection of files?

Answer. Please refer to the answer to the previous question.

TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS FOR FISCAL YEAR 1998

THURSDAY, APRIL 17, 1997

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

The subcommittee met at 9:32 a.m., in room SD–124, Dirksen Senate Office Building, Hon. Ben Nighthorse Campbell (chairman) presiding.

Present: Senators Campbell, Shelby, and Kohl.

PANEL 1

DEPARTMENT OF THE TREASURY

STATEMENT OF RAYMOND W. KELLY, UNDER SECRETARY, ENFORCEMENT

OPENING REMARKS

Senator CAMPBELL. The Subcommittee on Appropriations of Treasury and General Government will come to order. I thank everyone for being here. I asked, with Senator Kohl's concurrence, for a visual display to be set up this morning and, frankly, I have been thinking about this some time. In the aftermath of Waco and a few other tragic incidents, the accusations against Government agencies kind of went up to an alltime high. And the very, very volatile things that were said about some of our Federal agencies, how they were insensitive, the Gestapo tactics, all the things that you and I heard, really bothered me.

Part of the reason for wanting this display was to try to give a positive illustration of the efforts that our agencies are doing in fighting crime. I do not recognize some of those things, frankly, I appreciate the guided tour.

Years ago, I was active, I was a deputy sheriff. The last time was 1968. Boy, things have come a long way. I know that some of these technological advances are very, very expensive. I noticed with interest that small box. I was told that there was only three of them in the world. And that the cost is about $25,000 a copy. That is expensive equipment.

On the other hand, I firmly believe if you look at the alternative of not investing in new technology for fighting crime that the cost in terms of lost lives and lost property is going to be a heck of a lot more than that.

I just want to thank all of the agencies that set up those displays. I understand that you came in pretty early this morning to do that and I thank you.

I hope everybody in the audience had an opportunity to see those items on display. I think it is important to remember the people that work in the agencies, we hear from the ones that are kind of on the top echelon of the different agencies, but there are an awful lot of people out there putting their lives on the line for us whether they are Border Patrol or ATF or FBI or so on, and I just want to reaffirm my support for all of those people within the agencies.

The purpose of this morning's hearing is to discuss the budget request of the various law enforcement agencies within the Department of the Treasury. Most people are not aware that 40 percent of all Federal law enforcement is part of the Treasury Department and we are pleased to have those representatives with us this morning.

Our first panel will include Under Secretary for Law Enforcement, Raymond Kelly. He is the person responsible for law enforcement at the Department level. He is also in a unique position to see the big picture and accompanying him will be the heads of the various agencies.

George Weise, Commissioner of Customs, is also with us today. Customs has a very far-reaching mission. They administer and enforce the 1930 Tariff Act and its 400 provisions and its 301 ports of entry. They monitor all incoming and outgoing commercial traffic, collect dues and taxes on trade, interdict smuggling and other illegal entry practices, and they process about 450 million people a year at our borders and annually collect about $23 billion in revenue.

John Magaw, the Director of the Bureau of Alcohol, Tobacco and Firearms, is also here with us today. He has also had many diverse responsibilities for enforcing Federal firearms, explosive, and arson laws, to regulating wine, beer, and distilled spirits. His agency also collects about $13 billion a year from taxes on alcohol and tobacco and fees on firearms and explosives. The ATF is the premier agency in detection and investigation of explosives. And those who have not seen it, you might look at some of the ingenious bombs that have been built that are on display back in the back, no doubt disarmed, but they give a pretty graphic illustration about how creative people can be when they are intent on hurting their fellow human beings.

Charles Rinkevich, Director of the Federal Law Enforcement Training Center, is also here. Mr. Rinkevich is based in Glynco, GA. He also has the responsibility for the Artesia, NM, campus. This agency provides a comprehensive consistent basic training for Federal law enforcement personnel and advanced training at the request of some other agencies. There are now 70 agencies which send employees to be trained at this unit. This consolidation of training saves the Federal Government approximately $135 million a year.

Stanley Morris, the Director of the Financial Crimes Enforcement Network. FinCEN is responsible for establishing, overseeing, and implementing the Treasury's policies to prevent and detect money laundering. It is the central source for identification, colla-

tion, and analysis of intelligence in support of law enforcement operations combating money laundering.

Eljay Bowron, the Director of the U.S. Secret Service, is also here. While most people associate the Secret Service with protecting the President and the Vice President, in reality they have an extremely wide range of responsibilities. They investigate financial crimes such as counterfeiting, forgery on Government checks, theft and fraud associated with Treasury, electronics transfers, and computer and telemarketing fraud.

They are also responsible for protecting the White House, the Vice President's residence, foreign diplomatic missions, and the Treasury Buildings.

Our second panel will be Inspector General of the Treasury Department, Valerie Lau. Some of you will recognize Ms. Lau. She testified in committee, last week and we are glad to have her here again.

And with that, Senator Kohl, if you have an opening statement, we would be delighted to hear that.

STATEMENT OF SENATOR KOHL

Senator KOHL. I do, Senator Campbell, and I will submit it for the record.

I would simply like to offer just a few thoughts.

We, here, are very much indebted to those agencies who are coming before us today to review their budget and to make their requests and, of course, as you know, we will look at them very carefully to try and be as critical as we can, and as constructive as we can in helping you to fund your agencies.

But it should be recognized that this is, in a real sense, the good guys against the bad guys and what you all represent are the good guys. And we are fighting the bad guys throughout this country and throughout the world. I think in that effort you do, for the most part, a really heroic job in fighting, in many cases, insurmountable odds. The money that is available out there in illegal traffic is enormous and as long as that kind of profit is available to illegal people doing illegal things then our job will be very difficult in combating them. But as technology improves, your efforts improve, the kind of support that we give each other, hopefully, will continue to improve. And we will win that war; for the most part we will win that war by working together.

I think your agencies represent a commentary on how important Federal agencies can be, particularly law enforcement agencies, how important they are to our country. And while people are oftentimes cynical about Government and about what Government can and cannot do, I think there is no question that with respect to the kinds of efforts that you expend, your efforts are enormously important to our country and to our country's future.

So, I start out with that kind of confidence in you and that kind of support for your work and I hope that working together with you all, Senator Campbell, myself, other members of our committee, we can be and will be very constructive as we set upon deciding your budgets for the year ahead and I am delighted to be in your presence.

PREPARED STATEMENT

Senator CAMPBELL. Thank you, Senator Kohl. Your complete statement will be made part of the record.

[The statement follows:]

PREPARED STATEMENT OF SENATOR KOHL

Thank you Senator Campbell. We should also thank the agency's representatives for attending this very important hearing concerning the Treasury Department's law enforcement efforts.

Mr. Chairman, over the last twenty or so years we've engaged in an ongoing debate in Washington over the role of government. And, while people can argue over education and social programs, and whether government should be involved in any or all of these things—on the fundamental question of protecting our citizens, there can be no debate. The federal government has an important role to play in protecting the public, and the agencies assembled here today are critical to the success of that effort.

We are interested in reviewing all of the law enforcement programs that these agencies oversee, but let me highlight a few for special mention. First, crime prevention must be part of our strategy. While we must continue to fund prisons and police, investments in young people—before they encounter the law—have proven benefits.

While crime in many areas of the country has abated, juvenile crime continues to be a major problem. For example, since 1970, the number of juvenile homicides involving a firearm have increased by 300 percent. And over the next 10 years the juvenile population is expected to explode to numbers as large as during the Baby Boom period. So how can we address the juvenile crime problem?

The Bureau of Alcohol, Tobacco, and Firearms has operated two programs which deserve special attention, programs which I plan to explore later today with our witnesses. The Gang Resistance Education and Training program, known as GREAT, was created by ATF to help young people fight the pressure to join gangs by bringing a specialized anti-gang message directly to classrooms. Preliminary results of a national GREAT evaluation by the University of Nebraska are positive. We must, of course, make sure that we are spending money wisely, and I have introduced legislation to require evaluation for all federal prevention programs. But this is a promising program that deserves our attention. That is why I visited two GREAT program classes—one in Superior and another in LaCrosse, Wisconsin—and heard directly from community leaders, police and young people, about the positive message of GREAT.

Wisconsin has also recently benefited from another ATF program, the Youth Crime Gun Interdiction Initiative. This cooperative federal-local effort goes after illegal gun dealers by using the extensive ATF capabilities to trace guns used in crimes. By shutting down these gun traffickers, we can take hundreds, if not thousands of guns off the streets. Last summer Milwaukee was named one of 17 pilot cities to test this program first used with great success in Boston. And just last week our local police made their first arrest as a result of the joint Milwaukee-ATF program. The suspect was arrested for selling at least 28 guns to precisely the people we all agree should not own them—convicted felons and kids under 18. This program has already made a difference in my home city, and I thank you for your efforts.

I hope to use these hearings to learn more about these prevention programs and discuss how we can build and improve upon the successes we've already seen.

With regard to protecting our young people, it is important to credit this Administration with requiring that all federal law enforcement personnel use child safety locks on their handguns. As the sponsor of legislation to require that all handguns should be sold with these safety devices, I think it's just common sense to keep a firearm locked, stored, and safe. Hopefully, all families can have the same protection from accidental injury and death that federal law enforcement agents now enjoy.

Finally, we are at a difficult time for federal law enforcement agencies and, as a co-chairman of the Ruby Ridge hearing I pursued some of these problems in some detail. So we must all work hard to maintain the faith of the American people in federal law enforcement.

But we must also keep our perspective. Your people are on the front lines and many have to go to work every day knowing that they may be in some kind of dangerous situation. Bashing federal authorities will not reform agencies or build a stronger trust with the public. Only through constructive dialogue, in a bipartisan

fashion, can we continue to build and maintain the type of law enforcement structure that will protect every American and preserve their confidence.

INTRODUCTION OF WITNESS

Senator CAMPBELL. We will just start in order of the people as they are printed on the panel sheet here.

So, if Ray Kelly, the Under Secretary of the Treasury for Enforcement for the U.S. Department of Treasury could start out, we would appreciate it.

STATEMENT OF RAYMOND W. KELLY

Mr. KELLY. Thank you very much, Mr. Chairman.

Senator CAMPBELL. If you have extensive information you would like to turn in, without objection, it will all be included in the record. If you want to abbreviate your comments, feel free to do so.

Mr. KELLY. Yes, sir.

I have submitted my remarks for the record. I will keep to the direction that we have that our initial remarks will be no more than 2 minutes.

Mr. Chairman, Senator Kohl, I have spent virtually my entire adult life in law enforcement. And I have never encountered better men and women than those who serve in the enforcement bureaus of the Treasury Department. They are dedicated and resourceful professionals. They are well-led by the executives here today and well-trained at our Federal Law Enforcement Training Center.

There are scores of examples of enforcement activities in each bureau that deserve attention. The bureau directors will go into greater detail than I will now. I will only cite a few in the interest of time.

ATF is revolutionizing the way American law enforcement solves violent crimes through its gun-tracing programs. The police once considered a case virtually closed when they apprehended the shooter and retrieved his gun. Thanks to ATF, we are now going after the gun traffickers and straw purchasers who put guns into the hands of killers.

The Customs Service continues to interrupt the flow of illegal narcotics into the United States with significant successes in Operations Gateway and Hardline. Customs agents are also seizing record amounts of cash that the cartels are trying to smuggle out of the United States in bulk, as Treasury enforcement disrupts money laundering through banks and nonbanking systems.

The Financial Crimes Enforcement Network has helped lead this effort, supported by the Criminal Investigation Division of IRS, and others. The Secret Service, in addition to its important protective missions, is meeting new challenges in combating counterfeiting presented by computer, printing in color, copier technology.

As it has done in combating credit card fraud, the Service encourages the business community to work jointly with it to fight financial crimes in general.

In fighting narcotics and gun trafficking, arson and explosives, money laundering, and other financial crimes, Treasury enforcement is playing to its traditional strengths. With the Committee's support and advice, we intend to further develop our expertise, sharpen our effectiveness, and stay forward-looking. Thank you.

PREPARED STATEMENT

Senator CAMPBELL. Thank you, Mr. Kelly. We have your complete statement and it will be made part of the record.

[The statement follows:]

PREPARED STATEMENT OF RAYMOND W. KELLY

Mr. Chairman, Senator Kohl, and Members of the Committee, it is a pleasure for me to be here before you today to highlight the fiscal year 1998 budget request for Treasury's law enforcement bureaus and offices (with the exception of the Internal Revenue Service, Criminal Investigation Division (IRS-CID)). With me today are George J. Weise, Commissioner of the U.S. Customs Service; John Magaw, Director of the Bureau of Alcohol, Tobacco and Firearms; Eljay Bowron, Director of the U.S. Secret Service; Charles Rinkevich, Director of the Federal Law Enforcement Training Center (FLETC); and Stanley Morris, Director of the Financial Crimes Enforcement Network (FinCEN), and members of their staffs.

The Treasury Department represents approximately 40 percent of the total law enforcement officers of the Federal Government. Each year, Treasury's mission grows in complexity, scope and importance. Treasury Enforcement plays a critical role in serving the nation's law enforcement priorities. Treasury agencies protect our leaders and safeguard our financial institutions from money launderers and fraud. Treasury agents and inspectors protect our borders from drug traffickers and every day our agents fight to protect our streets from the threat of bombs, arson and gun violence.

In my testimony today, I wish to highlight aspects of our work and how that work would be supported by the fiscal year 1998 budget request.

U.S. CUSTOMS SERVICE

The Customs Service plays the leading role for the Treasury Department and the United States in interdicting drugs and other contraband at the border, and ensuring that all goods and persons entering and exiting the United States do so in compliance with all our laws and regulations. Most of the narcotics seized in the United States each year are seized by the Customs Service.

Customs' responsibility is tremendous. To put the drug interdiction challenge faced by Customs into perspective: Last year, Customs processed over 457 million people, 126 million vehicles and nearly $800 billion of trade. It performed the initial checks, processes, and enforcement functions for over 40 federal agencies and applied hundreds of laws and regulations. It performed these tasks by covering over 7,000 miles of land border and servicing over 300 ports of entry. While doing so, it collected approximately $22 billion in revenue for the United States in the form of duties, taxes, and fees.

Customs constantly strives to improve its ability to stem the flow of drugs while dealing with the increasing volumes of cargo and passengers into and out of the United States. Indeed, the number one operational priority for the Customs Service is preventing the smuggling of narcotics into the United States. It pursues this mission through interdiction, intelligence and investigation capabilities that disrupt and dismantle smuggling organizations. Major initiatives, such as Operation Hardline at the Southwest border and Operation Gateway in the Caribbean, have been extremely effective in denying smugglers access to the United States.

However, as you are aware, the job is not finished; although Customs seizes more illegal narcotics than all other agencies combined, illegal narcotics and other contraband continue to find their way into the United States. Customs will continue to develop the capabilities to meet the ongoing smuggling threats, on our southwest land borders, in the Caribbean, and at all borders and ports of entry across the country. Customs actively participates in inter-agency criminal investigations, and it will continue to strengthen its partnerships with the private sector, cooperative foreign governments and other federal agencies in order to continue its active role in the efforts against narcotics smuggling.

Customs' budget proposal reflects increases for Operation Hardline, Operation Gateway, updated technology and the rebuilding of infrastructure. The $23.4 million requested for Operations Hardline and Gateway, along with the funding request for infrastructure and equipment needs, will permit Customs to continue its fight to prevent illegal drugs from being brought into the United States.

SECRET SERVICE

The Secret Service is the nation's lead agency in investigating counterfeiting, forgery, and access device fraud. As the nation's counterfeiting expert, the Secret Service has investigated fictitious financial instruments, counterfeit currency and credit card schemes both domestically and internationally. United States currency is counterfeited around the globe. Indeed, approximately 70 percent of all counterfeit currency detected domestically is of foreign origin. Therefore, it is only prudent that the Secret Service devotes a large portion of its investigative resources to battling international counterfeiting issues.

The Secret Service has learned through experience that the best method to manage this problem is to address counterfeit issues at their source, with the permanent stationing of Secret Service agents in foreign posts. In addition, the Secret Service leverages its resources by enlisting international law enforcement agencies to identify counterfeit currency and suppress counterfeiting plates. These efforts, primarily carried out through counterfeit detection seminars, have promoted a cooperative international law enforcement effort to detect, suppress and prosecute counterfeit violations

Moreover, to prevent financial fraud schemes, the Secret Service has developed and implemented longstanding and effective partnerships with private industry to better understand various financial systems and combat significant losses. Assisting the industry and their financial systems with "systemic fixes," aggressive analysis, and proactive security enhancement measures has increased the overall security of these financial systems. Proactive joint initiatives with the industry, such as public awareness campaigns, media programs, speeches, seminars, and security training, are having a positive impact. These partnerships have reduced the ability of criminal organizations to target financial institutions.

As you know, the Secret Service also has the critical responsibility of protecting the President, Vice President, and other specially designated protectees. Its protective duties recently included the 50th Anniversary of the United Nations, the Olympics in Atlanta, and the presidential election campaign. Included in the Secret Service's fiscal year 1998 budget is a request for $28.8 million to implement security changes at the White House which are being made in accordance with recommendations made in the White House Security Review. This funding, along with the additional funding provided this fiscal year, will enable the Secret Service to implement all of the Review's recommendations. The funding provides for staffing to cover an enlarged security perimeter, as well as for the construction of additional crash resistant barriers and guard booths needed to define this perimeter.

ATF

ATF is responsible for investigating some of the most destructive, dangerous, and controversial crimes in the United States—bombings of abortion clinics, arson of churches, firearms trafficking, and firearms and explosives violations. In an effort to reduce violent crime, ATF focuses its investigative efforts on armed violent criminals, career criminals, armed narcotics traffickers, violent gangs, and domestic and international arms traffickers. It strives to deny criminals access to firearms, safeguard the public from bombings and arson, and imprison violent criminals.

ATF has developed and implemented a number of innovative programs to achieve these goals. ATF's Project LEAD, introduced in 1996, uses information obtained from tracing crime guns to identify and prosecute illegal firearms traffickers. Previously, a gun would be recovered in connection with a crime and, except for the investigation of the underlying crime, it would not be analyzed or traced further by law enforcement authorities. ATF has stepped up its efforts with other law enforcement agencies to learn more about crime guns. Using advanced computer software, ATF analyses information obtained during the tracing of crime guns to determine patterns of multiple purchases by one individual or from one store. When ATF uncovers a situation where multiple guns used in crimes all emanated from one source, they are able to investigate and prosecute, thereby eliminating a source of illegal guns. For example, when a New York City police officer was recently killed, four handguns were recovered at the scene. Tracing these handguns through Project LEAD has resulted in several investigations of sizable drug and gun trafficking rings across the country.

To further reduce the trafficking of firearms to juveniles, last summer ATF initiated the Youth Crime Gun Interdiction Initiative (YCGII) in 17 pilot cities throughout the country. The YCGII will help identify the sources of firearms being supplied to juveniles and to prosecute the traffickers responsible for providing these guns.

In response to the growing need for Federal assistance in communities experiencing serious gang and drug-related shooting incidents, ATF initiated a comprehensive

enforcement approach entitled CEASEFIRE. The CEASEFIRE Program combines ATF's gun tracing, gun trafficking, and violent offender initiatives with the latest forensic technology. The Integrated Ballistic Identification System (IBIS) is the heart of the CEASEFIRE Program. IBIS is a computer imaging identification system capable of matching cartridges or bullets from multiple shooting incidents. It also allows investigators to link shootings that occur locally to shootings involving the same weapon in another city. Given the number of shooting incidents that occur in the United States each year, a firearms examiners unassisted by technology working to connect related shooting incidents is in effect trying to find the proverbial needle in the haystack. Now, with IBIS, what used to take weeks and sometimes months, if it could be done at all, now can be done in seconds. The IBIS technology has already yielded significant results in violence-plagued communities across the country, and will continue to contribute significantly to the identification of homicide and shooting suspects and the linking of related gang shootings. For example, when a gang-related shooting occurred in Atlanta, GA, in September 1996, no suspect was identified and no one was arrested. However .40 caliber shell casings were recovered at the scene and were entered into IBIS. Two weeks later, an individual was arrested on unrelated narcotics charges. The gun found in his possession was test fired, entered into IBIS, and found to match the gun used in the earlier attempted murder. But for the use of IBIS, these two seemingly unrelated cases would likely never have been linked. Based on the results achieved with IBIS to date, we estimate that 1 firearms examiner equipped with IBIS can do the work of 550 firearms examiners without IBIS. This results in substantial cost savings, greater efficiency and more crimes solved.

ATF is also renowned for its expertise in the areas of arson and explosives. Through its certified fire investigators, National and International Response Teams, accelerant and explosives detection canine program, its accredited laboratory, its forthcoming arson and explosives repository, and numerous other programs, ATF maintains its role as the leader and innovator in these areas. Its expert work on the National Church Arson Task Force has helped produce a 33 percent clearance rate for the arsons under investigation, a rate that is more than twice the average rate for arson crimes in general. ATF assists State and local authorities with arson investigations falling under Federal jurisdiction and having a significant impact on their community, particularly when the nature or extent of the problem extends beyond the available resources or expertise of the locale involved. ATF also provides training to other Federal, State, and local enforcement agencies in the detection and investigation of arson, particularly arson-for-profit, and post-blast bombing investigation.

In addition to all of its investigative efforts, ATF is working to prevent violent crime and drug use through its Gang Resistance Education and Training (G.R.E.A.T.) project. G.R.E.A.T. is a program by which uniformed law enforcement officers help elementary and middle school children reject gangs and the drugs they peddle. ATF administers the program in partnership with the Phoenix Police Department, the National Sheriffs' Association, the International Association of Chiefs of Police, and the Federal Law Enforcement Training Center (FLETC), and provides the training to law enforcement officers to become certified G.R.E.A.T. instructors. Currently, over 800 different localities are teaching the G.R.E.A.T. curriculum in classrooms around the country.

To continue its vital work combating firearms violations, arson, explosives and violent crime, ATF's budget request for fiscal year 1998 represents a modest 3 percent increase over its fiscal year 1997 base funding.

FLETC

One of the reasons that Treasury law enforcement is so successful is the quality of training that its agents and inspectors receive at the Federal Law Enforcement Training Center (FLETC). Since its establishment by a memorandum of understanding in 1970, FLETC has built a reputation for providing high quality, cost effective law enforcement training. As you know, there are many advantages to consolidated training for Federal law enforcement personnel, not the least of which is an enormous cost savings to the Government. 70 agencies in 200 different training programs now train at the Center. Additionally, FLETC has been involved in providing law enforcement training overseas for over 20 years and has trained more than 5,000 foreign law enforcement officials from more than 102 different countries. We expect this growth to continue as more agencies recognize the many benefits of consolidated training.

Let me just mention a few of the many valuable training programs provided by FLETC: One of FLETC's particularly valuable tools is its Financial Fraud Institute

(FFI). The FFI provides the skills that criminal investigators need to combat the ever increasing sophistication of money laundering, financial crime, and computer crime.

FLETC is increasingly utilizing computers to provide instruction, thereby both providing state of the art training and maximizing the use of its facilities. It is also working with the U.S. Army Simulation Training and Instrumentation Command (STRICOM) to develop a joint technology transfer proposal, the centerpiece of which will be the FLETC's prototype multimedia computer based training module. This module will help prepare law enforcement officers to make split-second decisions in life or death situations. The expanded use of this computer based instruction will permit delivery of consistent and accurate information and training, as well as measurement and documentation of student performance.

The FLETC's budget request for fiscal year 1998 is $100,832,000. This represents a 30 percent increase (of which 25 percent relates to master plan construction projects) over fiscal year 1997 that results from the tremendous growth in FLETC's workload. Among the chief factors that have contributed to this unprecedented increase in workload is the recent Congressional and Administrative initiative to control immigration along our borders, the addition of new Federal prisons, and enhancements to security now being required at Federal buildings around the country. Since early 1996, FLETC has been operating at full capacity and we expect that this workload will continue through fiscal year 1999. To accommodate this increasing demand, FLETC has been utilizing temporary buildings and contracted or licensed facilities. In addition, some Border Patrol training is occurring at a temporary facility in Charleston, S.C.

To permit FLETC to train the law enforcement agents in the skills needed for the future, it has been implementing its master plan for facilities. This plan was first introduced in 1989 and when fully implemented will permit FLETC to achieve its goal of further developing, operating, and maintaining state-of-the-art facilities and systems responsive to interagency training needs. Indeed, a major portion of FLETC's fiscal year 1998 request—$18.6 million—is the continued implementation of the facilities master plan for new construction at FLETC's two centers in Glynco and Artesia. As FLETC's capacity increases, the need for a temporary site at Charleston, SC, now being used for overflow US Border Patrol training, can be phased out as soon as possible.

FINCEN

While Customs, Secret Service and IRS-CID are the financial crime investigators, FinCEN serves as Treasury's principal support arm for such investigative efforts. As its name states, FinCEN is a network, a link between the law enforcement, financial, and regulatory communities. It brings together government agencies and the private sector, in this country and around the world, to identify ways to prevent and detect financial crime, particularly money laundering.

In the complex world of money laundering, innovation is the key to keeping money launderers in check. This innovative approach was recently demonstrated by Treasury and FinCEN with the use of a Geographic Targeting Order—or GTO—in the New York City area. This order, which supports an anti-money laundering operation of the U.S. Customs Service, IRS, New York City Police and others, has caused a dramatic reduction in the amount of illicit funds moving through New York money transmitters by requiring 22 licensed transmitters of funds to report information about the senders and recipients of all cash purchased transmissions to Colombia of $750 or more.

As a result of the GTO, the targeted money transmitters' overall business volume to Colombia has dropped by approximately 30 percent. With this mode of moving money to Colombia restricted, the criminals have had to find other means of moving their money, including bulk smuggling. As a result, their transfers have become easier for law enforcement to detect and seize. Indeed, since the GTO went into effect in August 1996, Customs and the other participating law enforcement agencies have seized over $50 million, which is approximately four times higher than the amount seized during comparable periods in previous years.

FinCEN's fiscal year 1998 budget request of 181 FTE's and $23,006,000 will support the GTO and other innovative techniques to combat money laundering and financial crimes, using both regulatory and enforcement tools. In addition, under FinCEN's appropriation, we are proposing that two one-time initiatives be funded from the Violent Crime Reduction Trust Fund: $1 million dollars for a Secure Communications Outreach Program and $2 million dollars and four FTE in support of the President's efforts to encourage money laundering countries to institute internationally accepted anti-money laundering standards.

IRS-CID

Although IRS-CID is not a part of this appropriations hearing, I want to say a few words about their important contribution to Treasury's law enforcement efforts. Fighting financial crime is a job well suited for the special agents of the IRS-CID. They are known for their ability to "follow the money trail" and stop the criminal when no one else can. IRS-CID agents are financial experts in combating money laundering and tax evasion. Their expertise is sought in investigations of all types of financial crimes, including health care fraud, pension fraud, insurance fraud, bankruptcy fraud, telemarketing fraud, gaming, narcotics, and public corruption.

Today, IRS-CID is combating the increased use of computers for committing financial crimes with its latest weapon * * * a new type of special agent known as the Computer Investigative Specialist (CIS). Through IRS-CID's national Computer Investigative Specialist Program, the CIS continuously receives training in cutting edge investigation automation and evidence seizure and data recovery methods. Combining its unique financial expertise with advanced computer skills permits IRS-CID to optimize its ability to investigate and solve computer based and computer related financial crimes.

CONCLUSION

In summary, the Treasury Department is proud of the contributions that its law enforcement bureaus have made and continue to make to this nation. Treasury law enforcement will continue to make us proud as it enters into the 21st century by contributing to the goals of establishing leadership in the global economy, expanding trade, protecting our borders, fighting crime, and preserving the health and safety of the American people. This budget request would enable Treasury's law enforcement bureaus to meet the current challenges and to begin preparations for the challenges of the 21st century. I am confident you will find this to be a responsible budget, as it considers the growing demands of the law enforcement in a constrained budget environment.

With your permission Mr. Chairman, I would like to ask the Directors of the Treasury law enforcement bureaus to describe in more detail those strategies and goals we see as playing a key role in the coming fiscal year, as well as our recent accomplishments. After which we would be pleased to answer any questions you or members of this Committee may have.

Thank You.

STATEMENT OF JOHN MAGAW, DIRECTOR

Senator CAMPBELL. What we will do with Senator Kohl's concurrence is go through the whole panel before we proceed with questions.

So, John Magaw, Director of the Bureau of Alcohol, Tobacco and Firearms [ATF], could proceed.

Mr. MAGAW. Thank you, Mr. Chairman, Senator Kohl.

My written statement contains the complete description of our budget and, so, I will just go very briefly through the statement.

With me here today is our executive staff, whom I am very proud of. I believe that it is important that this executive staff is here, in this audience, to hear what you say, see what your concerns and suggestions are so that as we move forward, as a bureau, we can do what Congress wants us to do.

The Secretary of the Treasury is charged by Congress with a unique set of regulatory and criminal enforcement responsibilities involving all controversial products—alcohol, tobacco, firearms, and explosives.

These ATF-regulated products all have legitimate applications but also share serious social consequences if misused. Congress has chosen to address these products through a full array of Federal powers. ATF is a law enforcement agency with interwoven responsibilities for criminal investigation, tax collection, and industry regulation. ATF's fiscal year 1998 budget request flows from our key strategies developed to best fulfill our mission: That is to reduce violent crime, collect the revenue, and protect the public.

For example, in the area of violent crime one of our highest priorities is to respond to the American tragedy of youth violence by using the tools unique to ATF to make a difference through prevention and enforcement. We have exposed close to 1 million children to gang-resistance education and training programs. Through the youth gun interdiction initiative we are partnering with major cities to identify the adult sources of guns and crime guns going to juveniles.

In compliance with the Government Performance and Results Act, we have developed a performance plan and set a program for performance targets for each of our major activities. Our budget request is approximately $602 million. Once our headquarters and laboratory relocation funding is subtracted, our request represents less than a 3-percent increase over our 1997 budget.

The most important message I bring to you today is that you are overseeing a revitalized ATF, made stronger by the accountability demanded by the men and women of ATF, the Secretary and Under Secretary of the Treasury and, as important as any, the close oversight of this subcommittee. None of our recent successes, and there have been many, would have been possible without the

funding that you have provided for vital training and much needed operational equipment. This Director and the women and men of ATF thank you. That concludes my statement.

PREPARED STATEMENT

Senator CAMPBELL. Thank you, Mr. Magaw. Your complete statement will be made part of the record.

[The statement follows:]

PREPARED STATEMENT OF JOHN W. MAGAW

Thank you Mr. Chairman, Senator Nighthorse-Campbell, and members of the Subcommittee. I welcome this opportunity to appear before this committee and further acquaint you with ATF and the unique value we bring to the American public. I am here today to support the Bureau's fiscal year 1998 budget request of $602,354,000 and 3,991 full-time equivalent positions (FTE's). When compared to fiscal year 1997, this request represents an increase of $89,203,000 and 73 FTE's. This increase consists primarily of $48,044,000 for the relocation of our laboratory and $26,312,000 for the relocation of Bureau headquarters. Minus these increases, our request represents less than a 3 percent increase over fiscal year 1997 base funding. In addition, while I am here today, I would like to discuss our ongoing Church Arson and Counter-terrorism activities.

With me today are my executive staff members. If I may, I would like to introduce one new executive appointment. Mr. William Earle is our new Assistant Director for Management and Chief Financial Officer. He replaces Mr. Richard Watkins, who has recently retired. Since this new member has not appeared before your committee, I am submitting his biographical sketch for the record at this time. Executive staff members who have appeared with me before are Mr. Bradley Buckles, Deputy Director; Mr. Andrew Vita, Associate Director for Enforcement; Mr. Patrick Hynes, Assistant Director for Liaison and Public Information; Mr. Stephen McHale, Chief Counsel; Mr. Arthur Libertucci, Assistant Director for Science and Information Technology; Ms. Gale Rossides, Assistant Director for Training and Professional Development; and Ms. Marjorie Kornegay, Executive Assistant for Equal Opportunity.

PROGRESS IN STRATEGIC PLANNING

As many of you are aware, starting in 1997, the Government Performance and Results Act, commonly referred to as "GPRA" requires us to: publish strategic plans covering at least 5 years, publish annual performance plans which include measurable goals, and report on actual performance.

This law is intended to fundamentally change the Federal management and accountability from a focus on inputs and processes to a greater emphasis on outcomes and programmatic results. In essence, GPRA requires that we tell you what each of our programs is intended to do in the long term, specifically what we intend to achieve each year, and finally, what we did achieve.

ATF began its initial strategic plan in April 1994 which consists of the following key strategies/activities:

—To effectively contribute to a safer America through an integrated violence impact initiative.

—To maximize ATF's effect on crime and violence through the collection, analysis, and exchange of information and strategic intelligence.

—To maximize the advantages of technology for ATF and the public.

—To establish cooperative working relationships with industries and concerned groups through a formal ATF program.

With our fiscal year 1998 budget, we are including a performance plan and a set of program performance targets for each of our three major activities. We are making progress in developing meaningful, quantifiable measures for our programs. We will continue to look for improvements, and we welcome Congress' feedback on the measures we have submitted.

As an outcome of ATF's current strategic plan, the activity structure in the fiscal year 1998 budget has been realigned from Criminal and Regulatory Alcohol, Tobacco, Firearms, and Explosives to our Reduce Violent Crime, Collect Revenue and Protect the Public. ATF has also identified key outcome-oriented measures to gauge the success of the goals for each activity. The new activity structure is:

Activity 1: *Reduce Violent Crime.*—Reduce the future number of violent crimes and cost to the public through enforcing Federal firearms, explosives, and arson laws in the future.

Key Indicators: Crime-Related Costs Avoided; Future Crimes Avoided.

Activity 2: *Collect Revenue.*—Maintain an efficient and effective revenue management and regulatory system that continues reducing payer burden and government oversight, and effectively and fairly collects the revenue due under Federal laws administered by ATF.

Key Indicators: Taxes/Fees collected from alcohol, tobacco, firearms, and explosives industries; Alcohol and Tobacco Taxes Owed vs. Paid. (Tax Gap; Ratio of Taxes/Fees Collected vs. Resources Expended; and Burden Reduced.

Activity 3: *Protect the Public.*—Complement enforcement with training and prevention strategies through community, law enforcement, and industry partnerships and reduce public safety risk and consumer deception on regulated commodities.

Key Indicators: Individuals Exposed to Community Outreach; Satisfaction level of Public/Community and Industry Partnerships; Number of Unsafe Conditions Reported and Corrected; and Numbers of Individuals Trained/Developed.

ATF is committed to defining its unique Federal role, setting strategic goals, long term and annual targets, managing to achieve those targets, and reporting on its performance annually. ATF will continue to work over this next year to make sure that our measurements for success are carefully defined and tracked. Some are more difficult than others, but ATF is committed to reporting to the Congress and the American public on how well ATF is serving its taxpayers and achieving its goals.

ATF'S UNIQUE PROGRAMS

ATF is a law enforcement organization with unique responsibilities dedicated to reducing violent crime, collecting revenue, and protecting the public. The Bureau enforces the Federal laws and regulations relating to alcohol, tobacco, firearms, explosives, and arson by working directly and in cooperation with others. ATF's mission is to: Suppress and prevent crime and violence through enforcement, regulation, and community outreach; ensure fair and proper revenue collection; provide fair and effective industry regulation; support and assist Federal, State, local, and international law enforcement; and provide innovative training programs in support of criminal and regulatory enforcement functions.

Year after year, ATF works to make America a safer place for all of us by fighting violent crime. ATF's unique position of being vested with the enforcement and regulation of the Federal firearms and explosives laws and the regulation of those industries puts it at the forefront of violent crime enforcement. At our disposal are valuable assets that assist us in carrying out investigations against those who violate these statutes.

The statutes ATF enforces involve a blend of tax, regulatory, and criminal functions that the Treasury Department is uniquely suited to handle. Treasury law enforcement functions have always involved criminal laws interwoven with revenue laws and regulatory controls, whether in the enforcement of tax or trade law, currency protection, or firearms regulations. In the case of the firearms and explosives industries, the criminal investigative responsibilities cannot effectively be separated from the tax and regulatory responsibilities because they are so technically and practically interwoven.

ATF achieves tax compliance by focusing inspections on production facilities offering the greatest risk to revenue based on the volume of operations, past history of violations, poor internal controls, or questionable financial conditions. Teams of ATF special agents and inspectors perform complex investigations of multi-state criminal violations of the Federal Alcohol Administration Act and sections of the Internal Revenue Code. In addition, there has been a marked increase in the area of diversion internationally by organized criminal groups.

ATF inspectors maintain regulatory oversight of the legal explosives industry, including 13,000 explosives licensees and permittees. ATF's jurisdiction and specialized expertise are unique and provide invaluable services to the public through enforcement, regulation, and cooperative industry partnerships. This is particularly true in our efforts on firearms and explosives-related violence.

ATF provides resources to local communities to investigate explosives incidents and arson. ATF has a wide range of resources available. For instance, our National Response Teams (NRT's) include special agents, explosives technicians, fire protection engineers, and forensic scientists who respond to major incidents within 24 hours of a request to assist in large-scale fire and explosives scene investigations. Additionally, ATF: (1) has been active in the Church Fire Investigations, (2) trains canines in accelerant-detection and explosives detection, (3) has several ongoing explosives studies, and (4) provides expertise in solving arson-for-profit schemes.

In the area of firearms, our mission is simple—to reduce gun violence and to fairly and effectively regulate the legitimate firearms industry. Our targets are criminals who illegally use and/or supply guns to other criminals. The enemy of the law-abiding gun owner is not ATF; the enemy is the violent armed criminal. Every time someone fires indiscriminately into a school yard, or a crowded courtroom, or sprays gunfire at the White House, or targets law enforcement officers, we are reminded once again of the dangerous times in which we live. Our National Tracing Center, provides 24-hour assistance to Federal, State, local, and foreign enforcement agencies in tracing guns used in crimes. It is the only facility of its kind in the world. To further ATF's ability to trace crime guns, the National Tracing Center has partnered with members of the gun wholesale industry through electronic linkups that both speed trace completion time and save the industry money. This joint government/industry partnership is helping to fight crime nationally.

The more successful we are in keeping guns away from criminals, keeping illegal gun traffickers from reaching children, and prosecuting those who use guns in crimes and burn down America's churches, the safer all Americans are. That is ATF's mission—enforcing the law on behalf of the American people.

FISCAL YEAR 1996 HIGHLIGHTS

In support of this mission, the following are some highlights of our everyday work over the past year:

—An ATF defendant was sentenced to 215 years of incarceration. The sentence is the result of his conviction of 11 counts of robbery and 11 counts of using a firearm during a crime of violence. The defendant's arrest was the result of an investigation conducted by the Violent Crime Task Force, comprised of ATF agents and other law enforcement officers.

—ATF arson investigators assisted local law enforcement and prosecuting attorneys in a murder by arson investigation. ATF investigators utilized computerized fire modeling techniques to refute the version of the property owner's account of the fire. The owner pled guilty to the murder and arson and was sentenced to two consecutive life terms plus 30 years of incarceration.

—An ATF defendant, who has 40 felony convictions, was sentenced to 22 years incarceration and fined $17,000 as a result of a sentencing enhancement. This sentencing was a result of the defendant being arrested while being in possession of a loaded semiautomatic pistol.

—Five ATF defendants, who are members of the "El Rukin" street gang, were found guilty of conspiracy to commit racketeering, narcotics conspiracy, and other Federal law violations. The verdicts were the result of a 3-month trial. Each defendant is facing life imprisonment.

—Two ATF defendants, who are Ku Klux Klan members, pled guilty to Federal arson and civil rights violations relating to the arson of two predominantly African American congregation churches. The following day two additional Ku Klux Klan members were indicted for Federal arson, firearms, and civil rights violations for their participation in one of the previously mentioned church fires, the burning of a migrant worker camp, and automobile arson, and possession of 13 firearms and ammunition. Two of the defendants have now been sentenced to at least 18 years in prison.

—An ATF defendant was sentenced to two life sentences after being found guilty of Federal firearms violations. This defendant shot and pistol-whipped a victim as he robbed him of $150 in cash and a cellular phone. The defendant was later arrested in possession of a firearm that the ATF laboratory identified as the same firearm used to shoot the victim.

—An ATF defendant was sentenced to death for a murder, which he committed by setting fire to an apartment in which a female acquaintance and her 3 year old daughter were killed. The investigation revealed that the arson fire was an attempt to cover the deaths of the victims.

—A defendant was sentenced to 31 to 94 years in prison for two subway bombing incidents in which 41 people were injured. ATF agents assisted in the investigation by gathering evidence from the defendants residence, which resulted in the defendants conviction.

I am also proud to report that ATF was the recipient of four Hammer Awards. These awards are given by the Vice President for significant contributions in support of the National Performance Review Principles of putting customers first; cutting red tape; empowering employees; and getting back to basics. Awards were given to the following areas:

Project LEAD Team.—For developing a computer process that analyzes traced crime gun data and identifies by name criminal firearms traffickers and associates to aid field investigators.

The Partnership Formula Approval Process Working Group.—For streamlining, in partnership with the beverage alcohol industry and the flavor industry, the flavor approval process. The process time required prior to approval of some beverage alcohol labels and prior to the marketing of these products was reduced by six weeks.

The ATF CEASEFIRE Program Team.—For providing new and innovative government/private industry partnerships, resulting in the cost saving development of a highly-effective ballistics comparison technology and a national enforcement strategy to solve firearms related violence.

The National Tracing Center.—For using cost effective technology and teamwork involving Federal and contract personnel through which to implement an automated records management system, convert a massive and disorderly records collection system to a viable data storage and retrieval system—a valuable tool for the law enforcement community.

I want to congratulate the ATF personnel who have worked hard to earn these prestigious awards. This is a very significant accomplishment and shows ATF dedication and commitment to producing quality programs that benefit the United States.

THE YEAR IN PROGRESS

ATF and its predecessor agencies have rendered honorable and effective service for generations. As with all organizations, we have gone through changes. Effective organizations continuously re-examine the way they do business. Over the last several years we have sought to improve management, training, and operational systems. These changes have provided the framework for making ATF a stronger and more effective organization. With the strong support of the committee, we have begun to make significant strides in these areas.

When I appeared before this subcommittee last year I talked about instituting a series of leadership and operational changes. I feel that we have made good progress in implementing these changes. Along with our continued work in our daily efforts to build a sound and safer America through innovation and partnerships, we face several important issues throughout fiscal year 1997 and into fiscal year 1998:

—*Headquarters Relocation*.—ATF has been pursuing a suitable, secure site to relocate its headquarters and is requesting a prospectus approval to expedite the first phase of this relocation. Partial funding is requested in fiscal year 1998 to begin site acquisition, design and construction of a new building.

—*Restoration of Base Budget (Direct Appropriation)*.—ATF's base had a disproportionate share of pay, fixed and operational resources. ATF has made strides to correct this problem in fiscal year 1997, and with the Committee's support, ATF will meet its goal of continuing to correct this problem in fiscal year 1998.

—*Relocation of ATF's National Laboratory Center and Construction of a FIRE Facility*.—ATF received partial funding to begin the required analysis, site selection and engineering and design. The final prospectus is pending Congressional action by the Senate Environment and Public Work Committee. In fiscal year 1998, the Bureau is requesting the balance of funds to procure a site, design, and build the facilities.

—*Settlement of the African-American Employees Lawsuit*.—During fiscal year 1997, the Bureau has begun to implement the settlement of the African-American employees lawsuit by making changes in our recruitment, hiring, promotion, and training systems.

—*Implement GPRA*.—During fiscal year 1997 the Bureau identified outcome oriented performance measurements for fiscal year 1998, integrated its strategic plan with the budgeting process, and refined its budget activity structure to accommodate its business strategies. In fiscal year 1998 the Bureau will continue to develop systems and collect data to report on these performance measures.

—*Continuation of Studies*.—Through funding provided to the Department of Treasury in fiscal year 1997, ATF in conjunction with the National Academy of Science, will complete the four part Explosion Prevention Study (which includes Taggants) and the Armor Piercing Ammunition Study required by the Anti-terrorism and Effective Death Penalty Act of 1996 and report to the Committee on its status by April of 1997. We are also contracting with the National Academy of Science to conduct the Smokeless and Black Powder Tagging Study as required by the Omnibus Consolidated Appropriation Act of 1997.

FISCAL YEAR 1998 RESOURCE REQUEST

Before I move to more details of our program activities, I will highlight the following key budget changes from fiscal year 1997 which will move us closer to reaching our strategic goals, strengthening the management infrastructure, as well as providing the tools necessary to carry out our unique missions. If approved, our fiscal year 1998 budget represents the final stage of our three year goal of implementing a balanced funding ratio and will help us to fulfill our strategic goals to reduce crime, collect revenue and protect the public.

In addition to non-recurring one-time costs totaling $15,854,000 and $14,847,000 to maintaining current service levels, our direct appropriation request includes the following initiatives:

Base Restoration: $20,462,000

Supports funding to balance the Bureau's pay and non-pay expenses, thus providing base funding for operational needs and non-human tools necessary to carry out our programs in a safe and effective manner. Funding will be used to maintain equipment replacement cycles for vehicles, radios, and computers, renew software leases; meet communication requirements; assist in meeting the Year 2000 ADP conversion requirements, and provide needed recurring laboratory, investigative, and software supplies.

CEASEFIRE/IBIS Maintenance Costs: $1,200,000

The Bureau is requesting funding to maintain equipment and provide for recurring data line requirements associated with 25 existing sites. This program has now been installed at 12 out of our 21 field divisions.

Canine Explosives Detection Program: $3,974,000 and 17 FTE's

In fiscal year 1997, the Bureau has begun to expand the canine facility in Front Royal, VA., hire canine handlers and train up to 30 canines. In fiscal year 1998, with an expanded facility, the Bureau will be able to train up to 100 canines for state, local, and federal agencies. This expansion will complete the canine detection training infrastructure necessary to provide this level of training on an annual basis.

As part of our continuing plans to relocate our National Laboratory from Rockville, Maryland, the Bureau is requesting the following increase to complete this relocation and is requested as part of the Laboratory Construction Fund.

Laboratory and Fire Research Facilities: $48,044,000

In fiscal year 1997, Congress provided ATF partial funding to cover the costs of acquisition of a single site and the design for two separate buildings to house the National Laboratory Center relocated from space in Rockville, MD, and a new initiative, the Fire Investigation, Research, and Education (FIRE) Center, the newest member laboratory in ATF's Laboratory Services System. In fiscal year 1998, ATF is requesting full funding of the balance to cover construction and relocation costs. Construction of the new facilities is scheduled for completion in fiscal year 2000. Until that time, the National Laboratory Center will remain in its present location. The FIRE Center will be co-located with ATF's Forensic Science Laboratory. This FIRE facility will provide law enforcement agencies with access to a unique single facility for scientific research and forensic support into the causes and characteristics of uncontrolled structure fires. Currently, there is no fire research facility that is solely dedicated to support criminal enforcement needs.

In fiscal year 1997, the Bureau was appropriated $44,595,000 from the Violent Crime Reduction Fund. An increase of $5,783,000 over last year's level allows the Bureau to fund the following initiatives:

Headquarters Relocation: $26,312,000

This request allows the Bureau to begin site selection and design for construction of a new, secured Headquarters building in the metropolitan Washington, D.C. area.

Increase Number of Annual Explosives Inspections: $5,458,000 and 53 FTE's

This request is part of a three year phased in goal to annually inspect 100 percent of all high explosives manufacturing and storage facilities. In fiscal year 1997, we will increase our coverage to 65 percent of the industry. In fiscal year 1998, our goal is to increase the annual inspection coverage to 80 percent with the addition of 53 new inspectors.

Clearinghouse $1,608,000 and 3 FTE's

This request expands on the fiscal year 1997 initiative to enhance ATF's Explosives Incident System to allow direct access for all Federal agencies to report explo-

sives and arson incidents. In fiscal year 1998, the Bureau expects to complete the second year requirements for systems development, and hardware requirements, and allow field office on-line access to this information. Three positions are requested to assess and refine the data for tactical investigative purposes.

Illegal Firearms Trafficking: $6,000,000

One of the Bureau's main activities is to reduce violent crime. This activity utilizes ATF's unique statutory jurisdictions in firearms and explosives to attack armed violent crime by targeting for prosecution those illegal firearms traffickers who are supplying firearms to the criminal element and deny criminals access to firearms. This request is for a two prong strategy to upgrade Project LEAD to a Local Area Network (LAN)-based system from a PC-based system on a nation-wide basis. These funds also allows the National Tracing Center to handle the increased tracing workload by enhancing software, simplifying data entry and provide better database tools. Fourteen firearms trafficking groups will have access to this information.

Continuation of G.R.E.A.T. Program: $11,000,000 and 24 FTE's

To continue the partnership originally established between ATF, the Phoenix Police Department and the Federal Law Enforcement Training Center to utilize the expertise of each agency and to provide gang resistance and anti-violence instruction to children in a classroom setting. ATF will provide funding to 44 different localities through cooperative agreements to support their participation in this community outreach program at the same level as in fiscal year 1997. Arresting violators alone will not stop crime. We must dissuade young people from becoming involved in violence.

Our fiscal year 1998 budget is the cornerstone for creating a sound, fully balanced Bureau. It balances our pay, fixed and operational costs, while at the same time ensures we have acquired the necessary tools to face the law enforcement challenges of the twenty-first century.

REDUCE VIOLENT CRIME

ATF recognizes the role that firearms, explosives, and arson play in violent crimes and pursues an integrated regulatory and criminal enforcement strategy to impact these crimes. Investigative priorities focus on armed violent offenders and career criminals, armed narcotics traffickers, violent gangs, and domestic and international arms traffickers. Sections 924 (c) and (e) of Title 18 of the United States Code provide mandatory and enhanced sentencing guidelines for armed career criminals and narcotics traffickers. ATF uses these statutes to target, investigate and recommend for prosecution these types of offenders to reduce the level of violent crime and to enhance public safety.

Under the activity Reduce Violent Crime, we have three main programs: Deny Criminals Access to Firearms, Safeguard the Public from Bombing and Arson, and Imprison Violent Offenders.

DENY CRIMINALS ACCESS TO FIREARMS

The projects under this program relate to identifying and deterring the sources and participation in illegal firearms. We apply these strategies in concert with our community and industry partnership efforts and particularly in conjunction with our GREAT prevention effort. Projects include: Illegal Firearms Trafficking including Project LEAD, International Trafficking in Arms, Youth Crime Gun Interdiction Initiative; Firearms Inspections; Stolen Firearms; Operation Alliance; the National Tracing Center; and the High Intensity Drug Trafficking Areas (HIDTA).

Illegal Firearms Trafficking

The investigation of illegal firearms trafficking is one of the highest priorities within ATF. Illegal firearms trafficking involves the distribution of firearms for the principal purpose of making firearms available to others in violation of the law. Amendments to the Crime Control Act of 1990, the Brady Act, and the Violent Crime Control and Law Enforcement Act of 1994 have provided ATF with additional jurisdiction to pursue illegal firearms traffickers and reduce the availability of firearms to criminals. Illegal firearms trafficking program highlights for fiscal year 1996 include:

—Cases forwarded for prosecution—1,043
—Defendants recommended for prosecution—2,230
—34,491 firearms were illegally trafficked by those 2,230 defendants prior to their recommendation for prosecution.

—Due to the incarceration of these illegal firearms traffickers, in 1 year it is projected there will be 3,520 future firearms related crimes avoided, producing a savings to the American public of $38 million in crime related costs.

An additional component of our illegal firearms trafficking project is our enhanced training efforts regarding such activities, especially training provided to State, local and foreign law enforcement personnel. In addition to courses taught at the Federal Law Enforcement Training Center (FLETC), ATF will also conduct courses on illegal firearms trafficking at targeted locations.

In partnership with the Police Executive Research Forum (PERF), ATF has participated in the development of firearms trafficking training designed to certify State and local law enforcement officers as trainers in this curriculum.

These courses will enhance the expertise of our own agents as well as further the cooperative relationships already established with State and local agencies in combating illegal firearms trafficking activities.

Project LEAD

ATF has developed state-of-the-art computer software to analyze firearms trace data maintained by the National Tracing Center. Through Project LEAD, information captured during the tracing process enables ATF and other law enforcement agencies to identify and target potential illegal firearms traffickers.

Firearms Tracing

The ATF National Tracing Center traces the origin and ownership of guns used in crimes and is sharing this information with law enforcement agencies. The information, which is only from recovered and traced crime firearms, can be requested by Federal, State, local, or foreign law enforcement agencies. Criminal firearms trace statistics are maintained for each State, and investigative leads are furnished to the law enforcement community by identifying suspected traffickers.

During fiscal year 1996, approximately 116,674 requests for firearms traces were processed, an increase of 46 percent from fiscal year 1995. Urgent traces are usually completed within minutes and facilitated by our electronic links to industry.

Youth Crime Gun Interdiction Initiative (YCGII)

This initiative was designed to identify the sources of firearms supplied specifically to juveniles and to target traffickers who acquire and provide guns to juveniles. With the newly developed Project LEAD investigative analyses, the Bureau will begin to trace juvenile crime guns to their sources utilizing technological improvements in certain select locations nationwide. In support of the YCGII, ATF entered into a partnership with the National Institute of Justice and 17 police departments around the country. In support of this initiative, research will be conducted that will provide a comprehensive picture of the illegal flow of firearms to juveniles, juvenile crime patterns, and juvenile firearm preferences in each participating city. The enforcement effort will consist of ATF special agents and inspectors working with police departments from each selected city to investigate and prosecute those individuals that are identified as illegally supplying firearms to juveniles. The research results concerning trends in juvenile crime and the juvenile firearms market will be published at the conclusion of the initiative.

SAFEGUARD THE PUBLIC FROM BOMBING AND ARSON

The projects under this program focus on identifying and deterring sources and pursuing the criminal misuse of explosives material and fire. Projects include: Preventing Criminal Misuse of Explosives, including Trace Element (Detection), Stolen Explosives and Recovery, Profiling, Canine, Interdiction, Explosives Incident System, Tracing, Dipole Might (Pipe Bomb Study), Certified Explosives Specialist; Arson Audits; Asset Forfeiture; Investigation (Post Incident Response), including National Response Team, International Response Team, Explosives Technology and the Fire Facility. Consistent with our jurisdiction, ATF:

—Assists State and local authorities with any arson investigation, falling under Federal jurisdiction, and having a significant impact on their community, especially when the nature or magnitude of the problem extends beyond the investigative jurisdiction or resource capability of such authorities.

—Provides training to other Federal, State, and local enforcement agencies relative to the detection and investigation of arson over a broad spectrum of arson-oriented topics, with special emphasis on arson-for-profit schemes and other related arson tactics employed by organized crime and white collar criminals.

—Provides training in post-blast bombing investigation to Federal, State, local and foreign law enforcement agencies.

—In conjunction with the U.S. Army Corps of Engineers, the National Security Council, and the Defense Nuclear Agency, continued to participate in a project known as Dipole Might. The project is designed to develop a computer software system to assist investigators when processing large car bomb scenes.

During fiscal year 1996, ATF instructors participated at numerous explosives and arson related training programs conducted throughout the country. ATF publications entitled "Arson Investigation Guide" and "Explosives Investigation Guide" were revised, and the 1996 Arson Case Brief Publication was distributed.

During the period of fiscal year 1996 there were 255 explosives-related arrests that involved 315 defendants, 152 indictments and 294 convictions. There were also 287 arson-related arrests which involved 450 defendants, 81 indictments and 287 convictions. Over $29.8 million was saved from fraudulent insurance claims. And with ATF's internationally and nationally accredited laboratories, expert forensic support is provided on arson and explosives investigations.

Arson Program

ATF provides vital resources to local communities in the wake of arson and explosives incidents. ATF pioneered the development of local multi-agency task forces designed to pool resources and expertise in areas experiencing significant arson problems. In fiscal year 1996, ATF led formal arson task forces in 15 major metropolitan areas throughout the United States, and participated in numerous others.

Critical to the success of this comprehensive post-incident response is the certified fire investigator (CFI). ATF CFI's are the only investigators trained by a Federal law enforcement agency to qualify as expert witnesses in fire cause determinations. The Department of Justice recently requested that ATF provide basic arson familiarization training to the FBI and Department of Justice prosecutors concerning the church fire investigations. In fiscal year 1996, there were 54 CFI's stationed throughout the United States. Fifteen of those CFI's completed the 2-year training process and were certified in fiscal year 1996, and an additional 29 CFI candidates were in the initial stages of training and will be fully certified in fiscal year 1998. ATF CFI's have played a major role in the church arson investigations, and assisted with the fire investigation at the Department of Treasury Building in June, 1996.

In fiscal year 1996, ATF:

—Hired four additional explosives enforcement officers and the first of two full-time fire protection engineers (FPE's), making ATF the only Federal enforcement agency that employs this level of expertise. ATF's FPE's are dedicated solely to the analyses of origins and dynamics of fire as it pertains to criminal investigations. ATF also trained 24 special agents as certified explosives specialists.

—Developed a prospectus covering the creation of a Fire Investigation, Research and Education (FIRE) Center that will be constructed in partnership with an institution of higher learning. This facility will be co-located with and be a part of ATF's relocated National Laboratory Center, and will focus on forensic investigative support.

—At the direction of Congress, the Department of Treasury and ATF initiated a four-part Explosion Prevention Study. This study will continue to explore the feasibility of placing tracer elements in explosives materials for the purpose of detection and identification.

Accelerant and Explosives Detection Canine Project

ATF pioneered development and usage of canines to detect accelerants at suspected arson scenes in the early 1980's. This project, utilizing the ATF National Laboratory, has developed scientifically validated canine training methodologies and protocols.

These accelerant detection canines are made available to State and local police and fire agencies across the country. At the present, there are 46 working accelerant-detecting canines teams nationwide that are trained and certified by ATF. Recertification of the canines is done annually. There are an additional 115 ATF certified canines in 7 foreign countries through an agreement with the Department of State.

ATF also utilizes scientifically validated training methods and protocols in its canine explosives detection program. ATF is expanding its canine explosives detection program to provide canine explosives detection training for State and local law enforcement agencies.

ATF has received funding for the construction and expansion of its canine training facility. ATF is using the funding to expand its infrastructure and for the construction of a new canine training building and a new kennel facility. ATF will be

expanding its cadre of explosives detection canine teams and will place these teams throughout the country.

Finally, ATF has been authorized to develop explosive K–9 standards.

Church Arson Investigations

Since January 1, 1995, ATF, in conjunction with the National Church Arson Task Force, has investigated 349 church fire incidents. As a result of these investigations, 159 defendants have been arrested, clearing a total of 115 incidents. This represents a 33 percent clearance rate of church arsons by the task force, which is more than twice the average clearance rate of 16 percent for arson investigations.

In May 1996, the U.S. House of Representatives' Judiciary Committee held hearings on the church fires. ATF's participation in the hearings led to supplemental funding for fiscal year 1996 and fiscal year 1997 totaling $24 million.

ATF was instrumental in the development of the Major Case Team that has addressed the church fire investigations. The Major Case Team is collocated with the National Church Arson Task Force, and has a current staffing level of 12.

ATF developed a Church Threat Assessment Guide, and distributed over 30,000 copies. An additional 250,000 copies of these guides were distributed by the Federal Emergency Management Agency.

ATF implemented the 1–888-ATF-FIRE and 1–888-ATF-BOMB phone numbers. These national hotline numbers were developed and implemented in order to allow the public to phone in possible leads in these investigations.

National Response Team (NRT)

In fiscal year 1996, the NRT's provided effective post-incident response in 22 activations and obligated funding for the purchase of 6 replacement NRT vehicles, which will further enhance response capabilities. These vehicles will be ready beginning in March. ATF will order 10 additional vehicles to replace all antiquated and poorly designed vehicles (1981–1983). The NRT was utilized for the crime scene efforts in the Olympic Centennial Village bombing and the TWA Flight 800 investigations.

ATF also maintains an International Response Team (IRT), formed as a result of an agreement with the Department of State. The team has been deployed to such countries as Peru, Argentina, Pakistan, El Salvador, and Macedonia. The IRT was activated for two incidents in fiscal year 1996.

IMPRISON VIOLENT OFFENDERS

This program focuses on the investigation, arrest and recommendation for prosecution, of those criminals who violate firearms and explosives laws in their criminal activity. Programs/projects that fall under this activity include: Achilles, Task Forces and Project Uptown; CEASEFIRE; and the Violent Offenders Program.

CEASEFIRE

In response to the growing need for Federal assistance in communities experiencing serious gang and drug-related shooting incidents, ATF initiated a comprehensive enforcement approach entitled CEASEFIRE. This approach to repetitive violent crime combines all of our firearms assets—tracing, trafficking program, violent offender program, and our Achilles program experience with the latest forensic technology. At the heart of the program lies the Integrated Ballistic Identification System (IBIS), which is a computer imaging identification system capable of assisting the firearms examiner in linking firearms to expended ammunition and multiple shooting incidents. It also allows investigators to link shootings in one city to shootings involving the same weapon in another. The system does not replace the firearms examiner, but helps find the proverbial needle in the haystack in seconds rather than what used to take weeks and sometimes months.

CEASEFIRE has yielded significant results in violence-plagued communities across the country. ATF fully expects this project to continue to contribute significantly to the identification of homicide and shooting suspects and the linking of related gangland shootings. During fiscal year 1996, CEASEFIRE was able to expand to an additional 10 sites. This allows 12 out of our 21 field divisions do not have this equipment on site.

Laboratory personnel provide day-to-day technical support, give demonstrations of the technology, assist new users, work with the manufacturer on system improvements, and maintain a leadership role in a newly established users group.

Detroit, MI.—A firearm taken into custody for a traffic stop was test fired and entered into IBIS. An ATF examiner working with the local police to help clear the backlog of cases matched it to a October 1996 murder. Detroit police have said that

they could not have linked the two incidents without IBIS. One suspect is in custody and three additional suspects have been identified.

Washington, DC.—In January 1996 the CEASEFIRE program in partnership with the Metropolitan Police and using IBIS technology were able to link a 1992 shooting with a suspect who was taken into custody on an unrelated assault charge.

The Achilles Program

The Armed Career Criminal and Comprehensive Crime Control Act of 1984 provided the cornerstone of ATF's national firearms project known as "Achilles". ATF has experienced tremendous success with the enforcement of Title 18 U.S.C. section 924 and 924(e), which provide for mandatory minimum sentencing of recidivist criminals and armed narcotics traffickers. The Achilles Project is particularly effective in removing the most violent criminals from our communities, and in many cases, for the remainder of their crime-producing lives. Achilles Task Forces have been established in 20 major United States cities. The task forces, comprised of ATF special agents and inspectors, often with assigned State and local officers, work in targeted neighborhoods where the highest incidents of gang-related violence, drug trafficking, homicides, and other violent crimes occur.

The Achilles Project impacts on armed violent crime by incarcerating that percentage of active career criminals who are responsible for a majority of the violent crimes. From fiscal year 1989 through fiscal year 1996 there have been 29,872 defendants recommended for prosecution for being armed drug traffickers or armed career criminals. In addition, 1,889 defendants have been sentenced to a total of 33,602 years in prison as armed career criminals; 5,275 defendants have been sentenced to a total of 31,738 years in prison as armed drug traffickers, and there have been 41 life sentences under these two statutes. Using the Achilles Project performance measure formula, which meets the requirements of the Government Performance Results Act, it can be shown that in just fiscal year 1996, with the incarceration of 1,889 armed career criminals, ATF will have prevented 302,240 crimes and $700 million in crime-related costs that the public would have incurred.

Laboratory Support

The National Laboratory supports this activity by providing services in the following areas:

—*Firearms and Automated Ballistics Examination.*—Analytical support services for activities under our Reduce Violent Crime activity.

—*Explosives and Fire Debris Analysis.*—Chemist members of National Response Teams investigate bombings and arsons by identifying explosives and device components, reconstructing devices for investigative and court purposes, and developing investigative information from trace evidence collected at crime scenes using arson computer-based fire modeling and computer forensic data recovery.

The forensic science laboratories in San Francisco, CA and Rockville, MD, received notice of 5-year re-accreditations following inspections by the American Society of Crime Lab Directors (ASCLD), the leading professional organization committed to forensic science service for the criminal justice community.

COLLECT THE REVENUE

ATF collects the excise taxes on alcohol, tobacco, firearms, and ammunition. Taxes on these controversial products generate $12—$13 billion in Federal revenue annually.

Under this activity there are two main strategies: Ensure Collection of Revenue Due, and Manage and Process Revenue.

ENSURE COLLECTION OF REVENUE DUE

This program focuses on ensuring that all revenues eligible and due are collected. Projects under this program are: Excise Tax Inspections (alcohol, tobacco and firearms); Industry Seminars; Diversion and Smuggling; Market Basket Sampling; and Bonding and Qualification of Revenue Plants.

Excise Tax Inspections

ATF ensures that the revenue we collect remains sound by protecting it from fraud. There are more than 3,000 manufacturers of alcohol beverages, tobacco products, firearms, and ammunition who pay excise taxes on the commodities they produce. On-site inspections of alcohol, tobacco and firearms taxpayers are focused on facilities offering the greatest risk to revenue. With ATF's efficient post-audit system, we estimate that over 99 percent of the excise taxes owed to the Federal Government are paid through ATF in a timely fashion. Generally, the remainder is

identified and collected through the audit process. This is accomplished primarily with the use of commercial records and a minimum of required reports or forms.

ATF employees continuously monitor tax collections by auditing tax returns and assessments, initiating enforced collection action, analyzing required reports, and accounting for tax payments, licensing fees, and related refunds. ATF also reviews and acts upon applications and surety bonds submitted by companies that produce or sell alcohol or tobacco products.

When violations of law or regulations are uncovered by ATF inspectors and technical specialists, the natural inclination is to get the problem fixed, not to prosecute in a criminal court. When circumstances warrant it, however, ATF's regulatory enforcement inspectors forward the information to the criminal enforcement agents, then assist in the prosecution of the criminal case.

Diversion Project

ATF's regulatory oversight protects the Federal Government's revenue through compliance inspections of the manufacturers and importers of alcohol beverages, tobacco products, firearms, and ammunition. These inspections include investigating the diversion of export alcohol beverages and cigarettes withdrawn from the manufacturers' inventories without payment of tax.

During recent years, the Canadian government and certain State governments have imposed higher excise taxes on alcohol and tobacco products. The imposition of these taxes created a lucrative black market primarily dominated by white collar and organized crime groups.

ATF discovered that alcohol and tobacco products, originally destined for overseas countries, were being diverted, without payment of taxes, from the United States to Canada. Parts of the shipments were illegally diverted and smuggled into Canada to avoid the payment of the high Canadian excise taxes. Other portions of the shipments were found in the United States Had the products remaining in the United States gone undetected, the excise tax revenue would have been lost.

In similar circumstances, tax-paid products have been smuggled into Canada as well as from state to state in the United States to avoid the payment of the higher-rate State excise taxes in violation of Federal law. Domestic and international alcohol and tobacco diversion is becoming a target area for ATF enforcement priorities as it increases globally.

The seizure of alcoholic beverages and tobacco products by ATF agents and inspectors in 1996 has resulted in over $804 thousand being credited to the Asset Forfeiture Fund. Also, through our efforts, several members of the organized crime groups have been successfully prosecuted and in fiscal year 1996, ATF accepted $107,000 in settlements from subject distilleries and wholesalers to compromise their illegal involvement in diversion activity. There are currently 146 open diversion cases.

Approximately $2.7 million was assessed by ATF against entities who evaded payment of excise taxes by diverting alcohol and tobacco products. ATF's combined assets of regulatory inspectors, auditors, special agents, intelligence analysts, and tax specialists have enabled ATF to detect current and prevent future erosion of the revenue, particularly in the area of product diversion.

The National Laboratory, with several functions unique to ATF, supports this project in the following ways:

—*Beverage Alcohol Analyses.*—Chemical analysis is performed on alcoholic beverages produced in the United States or imported into the United States. Examinations verify that products meet legal requirements and reveal whether contaminants such as pesticides or toxic materials are present. New products are evaluated to determine how much tax is to be levied.

—*Non-beverage Alcohol Program.*—Chemical analysis of non-beverage alcohol products is performed to determine taxes owed. Technical evaluation of applications are conducted for new products containing taxable alcohol. These non-beverage alcohol products include foods, flavors, medicines, cosmetics, and industrial solvents. Over 10,000 new product formulas and samples are examined each year.

—*Tobacco Analysis.*—Chemical analysis and physical examination of new tobacco products to establish tax classification are also conducted. Examinations of existing products ensure that ATF collects the proper amount of tax revenue each year.

MANAGE AND PROCESS REVENUE

This program focuses on developing systems and processes to ensure that revenues received and paid out are effectively and timely managed. Projects under this program include: Tax Return and Claims Processing including Technical Services

and the Tax Processing Center. This oversight is done with minimum impact on commercial operations.

ATF ensures the collection of Federal excise tax and protection of the revenue through a system of laws, regulations, tax returns, permits, bonds, and disbursement (refund) functions in accordance with the Internal Revenue Code of 1986. The Bureau collects, records, and accounts for a variety of taxes and registration and license fees from alcohol, tobacco, firearms, ammunition and explosives industries. None of the non-entity revenue collected by ATF is used in any Bureau operations; all funds are transferred to the U.S. Treasury or other Federal agencies for further distribution in accordance with the various laws and regulations.

Management of taxpayer accounts and the proper receipt of tax returns and payments ensures accurate collections and reporting of all receivables. ATF's collection systems include work by the technical services staffs located in the districts and the Tax Processing Center in Cincinnati, Ohio. Principal activities of these entities include office audits of tax returns and reports, audits of claims, and collection actions, review and approval of applications for permits, registration of plants and surety bonds, and processing and custody of official case files.

ATF has begun the process of reducing the number of technical services offices, leading to a single revenue center in Cincinnati serving the whole country, which will be in place by 2001. In accomplishing this, ATF plans to maintain or enhance customer service and revenue protection despite an overall reduction in resources allocated to these functions.

PROTECT THE PUBLIC

There are three programs under this activity: Community Outreach, Protect the Consumer, and Public Safety.

COMMUNITY OUTREACH

The focus of this strategy is community efforts designed to encourage and participate in the prevention of violence including the Gang Resistance Education and Training (GREAT) project.

G.R.E.A.T. is a school-based gang and violence prevention program taught by uniformed law enforcement officers to elementary and middle school children. ATF administers the program in partnership with the Phoenix Police Department, the National Sheriffs' Association, the International Association of Chiefs of Police, and the Federal Law Enforcement Training Center (FLETC).

The Bureau anticipates providing funding to 44 different localities to support their participation in the G.R.E.A.T. project. We estimate that over 800 different localities are currently teaching the G.R.E.A.T. curriculum in classrooms around the country. In addition to providing financial resources, ATF also provides training to law enforcement officers, certifying them as G.R.E.A.T. instructors.

This program has been highly successful in educating young children about the dangers of gangs and violence. A cross-sectional evaluation conducted by the University of Nebraska in Omaha was completed in 1996 and concluded that the G.R.E.A.T. project has had a significant, positive impact on the participants.

PROTECT THE CONSUMER

The focus of this program is to ensure that commodities meet safety and product identity standards. Projects under this program include: Certificates of Label Approval, Market Basket Sampling, Industry and State Partnerships, Trade Practices, Beverage Alcohol Permits and Field Product Integrity.

An important part of the ATF mission is its focus on protecting the consumer. The authorization for this focus and oversight is based on the Federal Alcohol Administration Act (FAA Act). Passed in 1935, just after the repeal of Prohibition, the FAA Act gives ATF the power to regulate and prevent many of the industry excesses that led to Prohibition in the first place. This law, along with portions of the Internal Revenue Code, requires ATF to regulate the labeling and advertising of malt beverages, wine, and distilled spirits.

ATF prevents organized crime and other criminal elements from entering the alcohol beverage industry through the regulatory process. This includes the prescreening of permit applications and the financial investigation of applicants.

ATF is committed to helping the consumer directly and immediately by monitoring possible health hazards and investigating consumer complaints of tainted or adulterated alcohol beverages. Consumers are also helped indirectly by ATF's regulation of trade practices within the alcohol beverage industry. This regulatory activity ensures a level playing field for industry members and contributes to consumer values in the market.

Finally, a continuing liaison relating to alcohol beverages is maintained between the United States and its foreign trading partners. ATF is required not only to know the United States laws relating to beverage production, marketing, and trade, but also the parallel policies of major foreign nations. This liaison helps to reduce or eliminate trade barriers for United States businesses selling their products in foreign markets.

PUBLIC SAFETY

This program focuses on keeping ineligible or prohibited persons out of the regulated industry and ensuring that firearms and explosives are properly accounted for. Program/projects include: Licensing (firearms and explosives); Investigations (firearms and explosives applications); Explosives Inspections; and Fire Facility.

Firearms Licenses and Inspections

The Bureau is responsible for enforcing the licensing provisions of the Gun Control Act of 1968 (GCA). This law imposes licensing requirements on firearms manufacturers, importers, collectors, and dealers. In order to ensure that these requirements are met, ATF conducts a thorough inquiry with respect to each applicant. In the past, the GCA contained less stringent standards for acquiring a firearms license. However, recent changes in law and regulation have resulted in several additions to licensing requirements. ATF works to ensure compliance with present firearms licensing requirements. ATF implemented procedures to require more reliable forms of identification, such as fingerprints to assist in identifying any criminal history. In addition, the November 30, 1993, enactment of the Brady Handgun Violence Prevention Act increased the licensing fee for dealers from $30 to $200 for 3 years and from $30 to $90 for a renewal application.

Licensing standards were further enhanced by the enactment of the Violent Crime Control and Law Enforcement Act of 1994 (the Act). Provisions of the Act require that applicants for a license certify that they will comply with all State and local laws, including zoning requirements. In addition, applicants are required to notify the chief law enforcement officer of where their premises are located, and of their intent to apply for a Federal Firearms License (FFL).

As a result of the recent changes in law, there has been a dramatic decrease in the population of licensed dealers. As of February 19, 1997, there were 119,708 licensees in this Nation. ATF has fewer than 450 regulatory inspectors to monitor this program and conduct all other field inspections, including the entire range of alcohol, tobacco, and explosives work.

During fiscal year 1996 ATF received 6,460 new firearms license applications and inspected 6,385 on-premise firearms license dealers. A total of 21,795 telephone renewal applications occurred. A total of 10,051 on premise compliance inspections resulted in 7,026 violations being disclosed.

Explosives Licenses and Inspections

As important as it is to put arsonists and bombers in jail, ATF recognizes the value of averting accidents and keeping explosives from the hands of those who are prohibited from possessing them. ATF's regulatory enforcement provides a system of industry regulation emphasizing a proactive approach to the problem. Similar to the requirements for firearms, all manufacturers, importers and dealers are required to obtain a Federal license from ATF to conduct business, and certain users of explosives are required to obtain a Federal permit.

ATF regularly conducts on-site inspections to ensure that explosives are stored in approved facilities, which are secure from theft and located at prescribed distances from inhabited buildings, railways, and roads. One important focal point of this function is to correct violations before inspection, leading to reducing the threat to the public.

During fiscal year 1996, ATF conducted 957 on-premise explosives application inspections. A total of 2,813 on-site compliance inspections of permit holders were conducted and 1,238 violations were found.

MISDEMEANOR CRIMES OF DOMESTIC VIOLENCE

The Omnibus Consolidated Appropriations Act of 1997 (the Act) effective September 30, 1996, made several amendments to the Gun Control Act of 1968. One of those amendments was to make it unlawful for any person convicted of a "misdemeanor crime of domestic violence" to ship, transport, possess, or receive firearms or ammunition.

The amendment also applies to employees of government agencies. Thus, law enforcement officers and other government officials who have been convicted of a

qualifying misdemeanor will not be able to lawfully possess or receive firearms or ammunition for any purpose including performing official duties.

ATF has notified all Federal firearms licensees and all Federal, State and local law enforcement agencies of this new category of prohibited persons. ATF has also modified all forms used by Federal firearms licensees to include this prohibited person category.

CURRENT INFORMATION TECHNOLOGY SUPPORT

In fiscal year 1996, ATF developed a concept for the acquisition and deployment in fiscal year 1997 and fiscal year 1998 of infrastructure equipment, integrated networks, and operating and applications software forming an "Enterprise Systems Architecture" capable of providing automated information gathering and information sharing capabilities to aid ATF's investigative and regulatory business strategies and activities. When deployed in late fiscal year 1997 and early fiscal year 1998, this technology will improve access to critical data sources throughout ATF dealing with violent crimes, gun tracing, regulated industry data and performance data. All employees will, for the first time, have access to the data they need, where and when they need it.

The Enterprise Systems Architecture is a mix of hardware and operating software that forms the infrastructure on which a virtual office of continually evolving application services will be installed to support ATF's Firearms, Arson and Explosives, Intelligence, Integrated Ballistics Identification, Collections, Financial Management, and Personnel and Performance Measurement systems.

The infrastructure consists of:

—a "backbone" communications network capable of transmitting and sharing data instantaneously within and among organizational segments via local, metropolitan, and wide area networks;

—deployment of a mix of desktop and notebook personal computers with simultaneous delivery of training in their use to ATF's approximately 4,000 employees;

—a standardized suite of software consisting of operating systems, telecommunications software, database management systems, applications development tools, etc.; and

—upgrades to ATF's mainframe computer so that it can continue to be the host platform for legacy applications, provide a base for client/server applications, and provide archival data storage for recovery purposes for all servers in the configuration.

These infrastructure and application services developed within or under contract for ATF have been designed to meet ATF's core business strategies, as well as meet information systems security requirements and Year 2000 compliance requirements.

In fiscal year 1997, ATF will be able to:

—purchase mainframe computer upgrades including robotics for virtual unattended operation; and

—create an Enterprise Systems Architecture office to work with the Information Technology Standards Working Group, the Information Resources Management Council, the Information Technology Advisory Board, and the Strategic Management Team, to apply a 3-year lease acquisition strategy for deployment of the Enterprise Systems Architecture by late fiscal year 1997/early fiscal year 1998.

TRAINING EFFORTS

With the support of this Committee, the Bureau has undertaken a number of new training initiatives and enhancements to existing training programs. We have allocated additional resources to support our training efforts and have focused primarily on arson, explosives, and firearms training projects. We have increased the number of post-blast and general explosives proficiency training courses, increased the number of firearms trafficking schools (with an added emphasis on international firearms trafficking), revised our arson training curriculum and undertaken to train additional personnel as Certified Fire Investigators (CFI's), and enhanced our leadership development programs.

Concurrent with these efforts and with the support of the Department of State, we continue to conduct post-blast and firearms trafficking training for international law enforcement officers in both Eastern Europe and Latin America.

One of the Bureau's statutory mandates is to undertake the training of State and local law enforcement personnel. To this end, we conduct courses in firearms trafficking, post-blast explosives, arson, and undercover techniques for these personnel. Utilizing funds provided in fiscal year 1997, we have undertaken development of an Improvised Explosive Device (IED) training curriculum for delivery to State, local, other Federal, and airline industry personnel.

In addition to our classroom activities, we have also pursued a number of systemic changes designed to improve the quality and effectiveness of our training programs. We have completed and implemented an ATF Training Model, which establishes standards and protocols for the development and delivery of ATF training. We have also initiated curriculum re-engineering efforts, particularly with regards to some of our arson training courses, designed to achieve formal accreditation of our educational efforts. Our recently implemented instructor development system is designed to enhance the skills and techniques of ATF instructors, thereby elevating the quality of the training courses ATF delivers. Finally, we have undertaken revisions in the methods by which we identify and select personnel to receive training to ensure compliance with legal mandates. Training must be a continuing process.

EQUAL EMPLOYMENT OPPORTUNITY

Three major cross-cutting issues dealing with training, recruitment, and supervisory accountability are presently being addressed by focus groups and members of the Executive Staff.

I am proud of the significant progress we have made in the area of career advancement for women and minorities. For example, in 1987, women held only 5.4 percent of GS 13–15 positions in ATF; in 1996, that figure was 17 percent. Gains were also made in SES positions. In 1987, there were no women in SES positions; in 1996, women represented 14.8 percent of the SES cadre. Minorities hold 7.4 percent of SES positions.

We have also increased the number of female and minority special agents in our work force. In 1982, the Bureau employed only 23 female special agents; by 1988, that number had risen to 116; and by 1996, ATF had a total of 216 female special agents, or 12 percent of the total, up from 7.9 percent in 1988 and 1.8 percent in 1982. Similarly, we have steadily increased the number of minority special agents in recent years. In 1982, ATF employed only 63 minority special agents; in 1988 that number increased to 201; and by 1996, we had a total of 357 minority special agents, or 19.1 percent, up from 5 percent in 1982 and 14 percent in 1988.

ATF Early Complaint Resolution Program (ECRP)

On December 3, 1996, ATF established an 18 month pilot Early Complaint Resolution Program (ECRP). This program is designed to help parties involved in the Equal Employment Opportunity (EEO) Complaint process resolve their differences through the use of Alternative Dispute Resolution (ADR) techniques, primarily during the pre-complaint/counseling stage of the process. The program is completely voluntary and the mediator cannot impose a decision on the parties. Participation in the ECRP does not jeopardize an aggrieved party's right to pursue formal EEO procedures if no resolution of the dispute is achieved. This program has the potential to improve morale and significantly reduce the time and costs associated with traditional EEO procedures.

Professional Review Board and ATF/NTEU Partnership

Illustrating our commitment to ensuring a fair and equitable workplace for our employees, ATF established a Professional Review Board (PRB) and the ATF/NTEU Partnership Council.

The PRB addresses issues of timeliness and consistency in disciplinary actions for all non-bargaining unit employees. Working with the Employee and Labor Relations Branch and Chief Counsel, the PRB (composed of senior Headquarters managers representing a cross section of the Bureau) determines and issues proposals for disciplinary and adverse actions resulting from Office of Inspection investigations.

The ATF/NTEU Partnership Council, which meets on a quarterly basis, provides a forum to address and resolve issues of mutual concern between ATF management and the National Treasury Employees Union. In the almost 2 years since its inception, the Council has worked together in reaching solutions to Bureau-wide issues. Feedback received from the facilitator who works with our Council, as well as those of other Federal agencies, indicates that ATF's partnership is the most productive and successful organization of its type in its experience.

MANAGEMENT AND ADMINISTRATIVE EFFORTS

Several other administrative and management initiatives are noteworthy. They are in the areas of security, field structure, accountability, and customer service plans.

As a result of the Oklahoma bombing, ATF was provided funding to enhance physical security, both in the field and at Bureau Headquarters. Immediate steps were taken to safeguard employees, and plans are underway to relocate Bureau Headquarters so that we may have more control over our security. In addition, a

number of security enhancements have been scheduled for our field installations following a security needs survey. For example, we are placing X-ray machines in facilities that receive a high volume of mail.

ATF continues its drive to become a customer focused organization, which is directly in line with the guiding principles of our strategic plan:

—We created a new position in the Office of the Ombudsman to develop, support, and oversee a problem resolution program for external customers.

—We established the new position of Customer Service Specialist at the Firearms and Explosives Licensing Center in Atlanta and Technical Services in Cincinnati.

—Annually, we publish customer satisfaction reports telling our customers how well we did in meeting our previously published service standards.

—Several groups within ATF, including our labeling section, have sent their customers surveys, the results of which are used to improve service. More groups, including our National Response Teams, will be surveying their customers this year.

This completes my statement. I will be happy to answer any questions you may have and I would like to express my sincere appreciation of the support that your Committee has provided us. I look forward to working with your Committee to further our mutual goals of safeguarding the public and reducing violent crime.

U.S. CUSTOMS SERVICE

STATEMENT OF GEORGE WEISE, COMMISSIONER

Senator CAMPBELL. I just noticed I had skipped over George Weise, U.S. Customs Service.

So, George, I apologize, go ahead.

Mr. WEISE. Thank you very much, Mr. Chairman and Senator Kohl. It is, indeed, an honor to come before you and describe the work of the U.S. Customs Service. I would like to join my colleagues and take this opportunity to thank you and this committee for your outstanding support and to assure you that we will continue the high-quality performance which has earned your backing.

Customs' fundamental mission, as you indicated in your opening statement, is to protect the Nation's borders. We enforce hundreds of tariff and trade laws and regulations. We perform the initial checks, processes, and enforcement functions of over 40 other Federal agencies and we collect over $20 billion in revenue in the form of taxes, duties, and fees.

We have many responsibilities in Customs, but I want it to be made clear that none is more important than the task of preventing illegal drugs from crossing our borders. Drug interdiction has been and is our greatest operational priority. Last fiscal year we seized over 1 million pounds of illegal narcotics—a Customs record.

Our seizures of cocaine, heroin, and marijuana rose sharply from the previous year: 15 percent for cocaine, 23 percent for marijuana, and 20 percent for heroin. These figures are impressive, but they are by no means signs that we, as a nation, are making major inroads against the cartels who continue to flood our communities with drugs and all too often deprive these communities of hope and fill them with crime.

All of us in the drug law enforcement business can do a better job and Customs, notwithstanding last year's success, is no exception. I believe that the $641 million we have requested for our antidrug efforts in fiscal year 1998 will enable us to better combat drug smugglers.

With these funds we will be able, for example, to conduct more antismuggling operations; to employ new technology, some of which you have seen in the room today, that will allow us to more efficiently and more effectively use our resources; to devote more personnel to high-threat drug zones; and, finally, to shore up our infrastructure.

Inextricably related to Customs' interdiction mission is our focus on promoting integrity within our ranks. We are keenly aware of the threat of corruption and we are continually introducing new programs and procedures to prevent corruption and to quickly detect it when it occurs. Our Office of Internal Affairs continuously reevaluates security controls, regularly conducts extensive integrity training, and is in the process of improving our data base so that

we can identify trends and, in essence, find rotten apples before they do any damage to the rest of the barrel.

Our $1.7 billion budget request for fiscal year 1998 not only will help us in the fight against drug smuggling but will ensure adequate funding for all of our operations. Our capacity to deliver to the American taxpayers the high-quality services they expect and deserve depends on maintaining a well-equipped, reliable infrastructure.

Let me thank you again for your support and I will be happy to answer any questions at the end of the testimony.

Thank you, Mr. Chairman.

PREPARED STATEMENT

Senator CAMPBELL. Thank you, Mr. Weise. We have your complete statement and it will be made part of the record.

[The statement follows:]

PREPARED STATEMENT OF GEORGE J. WEISE

Mr. Chairman and Members of the Committee, it is a pleasure to be here today to discuss the activities of the Customs Service and to present our appropriation request. Once again, I am looking forward to working with this Committee and am confident that Customs will continue to enjoy the same high level of support it has received in the past. Accompanying me today are members of Customs executive management team.

Our resource requests, our priorities, and our commitment are all derived from our mission, which is to ensure that goods and people entering and leaving this country conform to all applicable laws. In fiscal year 1998, while challenges facing Customs will continue to grow in complexity and scope, our greatest operational priority will continue to be drug interdiction and the dismantling of drug smuggling organizations. In fiscal year 1996, Customs cocaine seizures increased approximately 15 percent from the previous year, heroin seizures increased approximately 29 percent and marijuana and hashish seizures increased approximately 23 percent. Overall, Customs seized approximately one million pounds of narcotics—more than all other Federal law enforcement agencies combined. This is a new milestone for the agency.

As you are aware, however, the job is not finished. Illegal narcotics and other contraband continue to find their way into the United States. To meet the drug challenge and our projected workload, we are proposing a budget of $1.7 billion for fiscal year 1998 which includes funding for anti-smuggling operations, land border automation, laboratory upgrades, personnel relocation and vehicle replacement. These resource increases, which I will discuss in more detail later in this statement, will contribute to refining our core processes and strategies.

WORKLOAD

The U.S. Customs Service is accountable for the screening of all commercial movement of cargo across our borders. Last year, the Customs Service collected about $22 billion in revenue for the United States in the form of duties, taxes, and fees. The Customs Service applied hundreds of laws and regulations concerning tariff and trade to over 16 million entry summaries which involved nearly $800 billion of trade. Additionally, Customs performs the initial checks, processes, and enforcement functions for over 40 federal agencies. Customs performs these tasks by covering over 7,000 miles of land border and servicing over 300 ports of entry.

Customs will have to address increasing workload requirements as the number of passengers and conveyances crossing our land borders or entering through our airports and seaports grows. In fiscal year 1997, it is estimated that there will be 372 million land border passenger arrivals, 71 million air passenger arrivals, and 8 million sea passenger arrivals. Customs also estimates that 125 million vehicles, 713,000 aircraft, and 110,000 vessels will enter our ports. As trade and traffic increase, Customs must remain ever vigilant against drug smuggling attempts.

PROCESSES AND STRATEGIES

The Customs Service reorganized in fiscal year 1995 with the principles outlined in their report, *People, Processes and Partnerships: A Report on the 21st Century*. This effort, which was recognized by the General Accounting Office (GAO) as a model in their guide "Effectively Implementing the Government Performance and Results Act," provided the framework for Customs to develop the processes and strategies it will need to adapt to the changing demands of its mission.

Customs has three core operational processes: Trade Compliance, Passenger Processing, and Outbound. The goal of the Trade Compliance process is to maximize compliance with Customs trade laws while decreasing the cycle time for releasing legitimate cargo in an environment in which our workload is expected to balloon, and in which we must address effective interdiction objectives which I will discuss shortly. Customs expects to achieve this through a balance of informed compliance and targeted enforcement that will allow us to focus resources on violators of import laws and regulations. The goal of Passenger Processing is to ensure compliance with Federal laws and regulations by targeting, identifying, and examining high-risk travelers, while expediting low-risk travelers. The Outbound Process is responsible for the enforcement of laws concerning the export of undeclared currency, the illegal export of stolen vehicles, munitions, dual use materials with military applications, and precursor materials. Outbound is also charged with the high profile responsibility to enforce embargoes against countries sanctioned for supporting terrorism. Other responsibilities of Outbound include the maintenance of the Office of Defense Trade Control (ODTC) munitions license program, and the collection of outbound trade statistics and harbor maintenance fees on exports. Inherent in Customs processes are the Narcotics and Money Laundering strategies which deal with those who willfully violate the law.

CUSTOMS NARCOTICS STRATEGY

Customs goal is to prevent the smuggling of narcotics into the U.S. by creating an effective interdiction, intelligence, and investigation capability which also helps to disrupt and dismantle smuggling organizations. Proactively, Customs developed four objectives as part of its overall narcotics strategy. The purpose of these objectives is to provide to Customs enforcement officers the tools and systems they need to improve their ability to interdict narcotics. Through the various initiatives and programs which I will highlight, it is clear that Customs is making progress in its efforts to combat the illegal flow of drugs.

Customs first objective is the development, collection, analysis and dissemination of actionable intelligence throughout all levels of federal, state, and local narcotics enforcement agencies. Customs has been at the forefront in developing more useful intelligence, especially as it relates to the Southwest Border.

A second objective of our narcotics strategy is the development and dissemination of information to trade and carrier communities to prevent the use of cargo containers and conveyances by smuggling organizations. One program which is helping Customs meet this objective is the Business Anti-Smuggling Coalition (BASC). In March 1996, BASC, a business-led, Customs-supported alliance, was created to eliminate the use of legitimate business shipments by narcotics traffickers to smuggle illicit drugs. BASC is currently being prototyped at the ports of San Diego, Miami, and Laredo. The Border Trade Alliance, Mattel and 32 other companies in San Diego, as well as Sara Lee and other businesses in Miami, have been working with Customs in developing the program. Mattel, setting an example for others, has already developed a comprehensive anti-drug program that has been incorporated into its daily business practices. BASC was recognized in the Vice President's report to the President on the National Performance Review as a shining example of how government and industry can work together.

Two other programs which Customs has employed are the Carrier Initiative Program and the Land Border Carrier Initiative Program which enhance the movement of legitimate cargo while bolstering Customs enforcement posture. These programs encourage air, sea, and land border carriers to improve their security practices to prevent narcotics from getting onboard their conveyances. Participation in both programs is encouraging. As of January 1997, 105 air carriers, 2,870 sea carriers, and 800 land border carriers have agreed to participate. Over the last two fiscal years, participants in the Carrier Initiative Program have provided Customs with information that led to seizures totaling 18,437 pounds of narcotics, as well as initiating their own foreign interceptions totaling 59,181 pounds of narcotics.

Customs third narcotics strategy objective is the development and introduction of technologies to identify smuggled narcotics and to force smuggling organizations to resort to higher risk methods. Customs recognizes that technology plays a signifi-

cant role in our ability to remain effective while thwarting smuggling efforts between some of the ports by aircraft and boats. Customs employs a wide range of technological tools to protect our borders.

This year, we look forward to further enhancing the effectiveness and quality of support provided by our Air Program through a variety of initiatives. By the end of fiscal year 1997, Customs will have integrated seven maritime search and surveillance-configured C–12 aircraft into our fleet. These aircraft will be deployed to our Aviation Branches in Puerto Rico, Miami, and San Diego.

Consistent with direction set forth in our fiscal year 1997 appropriations, Customs assumed the air support requirements of the Bureau of Alcohol, Tobacco, and Firearms. Three new Customs Air Units have been established in Sacramento, California; Cincinnati, Ohio; and Kansas City, Missouri; to ensure our support is comprehensive and timely. Also this year, funding was made available to retrofit two Navy P–3 aircraft to Airborne Early Warning (AEW) configuration for incorporation into our fleet during fiscal year 1999.

New and emerging land border technologies, such as truck x-ray systems and License Plate Readers (LPR's), coupled with skilled inspectors and National Guard personnel, provide effective enforcement systems for identifying and isolating the smuggler or contraband, while expediting the flow of legitimate trade and travelers. The LPR's will enable our inspectors to accomplish their work without being distracted by entering license plate numbers into our automated law enforcement system. The first truck x-ray system continues to be successful at Otay Mesa, California. This prototype has contributed to the seizure of 17,765 pounds of drugs, most of which were concealed in false compartments and other hiding places in the vehicles, not in the cargo.

In support of examination technology, Customs has developed the Automated Targeting System (ATS). ATS is an expert, rule-based system with artificial intelligence principles. Commercial transactions will be run against approximately 300 rules developed by field personnel, inspectors, and analysts in order to separate high-risk shipments from legitimate ones.

Customs involvement in various multi-agency operations has helped us maximize our narcotics interdiction results and meet the fourth objective of our narcotics strategy—the implementation of various proactive, reactive, and multi-agency covert and overt narcotics investigative programs. In addition to fortifying and enhancing our efforts along the Southern Tier of the United States under Operation Hardline, Customs is increasing its investigative emphasis in staging and distribution cities such as Los Angeles, Houston, Miami, Chicago, and New York. These efforts will do even more to disrupt the highly complex and sophisticated smuggling organizations that challenge our borders. These investigative efforts will also add to our body of knowledge, allowing Customs to interdict more at the border based on prior information. This full circle approach is what we call the "Investigative Bridge" and it seeks to go beyond border interdiction and capitalize on the intelligence and information developed through investigations of smuggling organizations. This information then feeds our border interdiction efforts resulting in additional seizures and the cycle begins again.

Two other effective vehicles for accomplishing this fourth objective are the High Intensity Drug Trafficking Areas (HIDTA) sponsored by ONDCP and the Organized Crime Drug Enforcement Task Force (OCDETF) sponsored by the Department of Justice. The HIDTA program identifies those geographic areas in the U.S. that are responsible for the majority of importation and/or distribution of much of the Nation's drug supply. OCDETF investigations also target major narcotics organizations. Frequently, these investigations link organization cells that span across the entire United States as well as source and transit countries.

OPERATION HARDLINE

Over the course of several months during 1994, our Nation's Southwest Border ports of entry experienced a dramatic escalation of violence associated with narcotics smuggling attempts. Drug traffickers known as "port runners" were recklessly crashing narcotics-laden vehicles through Customs checkpoints along the entire land border with Mexico. These incidents of port running were often successful, and always posed great danger to border officers and innocent civilians. In February 1995, Customs began Operation Hardline in an attempt to permanently harden our ports of entry against border violence and to deny smugglers the use of commercial cargo as a means of introducing narcotics into the United States.

Since the inception of Operation Hardline, we have fortified our port infrastructure, expanded our investigative activities, and enhanced our intelligence gathering and analysis efforts. As a result, our personnel are safer, better equipped, and in

greater number at the ports of entry along the Southwest Border. Additionally, the highest threat areas have benefited from the acquisition of sophisticated detection technologies.

Hardline has proven to be successful thus far. Port running is down over 56 percent from 1994 levels. In fiscal year 1996, narcotics seizures on the Southwest Border increased 29 percent by total number of incidents (6,956 seizures) and 24 percent by total weight (545,922 pounds of marijuana, 33,308 pounds of cocaine, and 459 pounds of heroin) when compared to fiscal year 1995 totals. The total weight of narcotics seized in commercial cargo on the U.S.-Mexico border in fiscal year 1996 increased 153 percent (56 seizures totaling 39,741 pounds) over fiscal year 1995.

OPERATION GATEWAY

The Caribbean area, specifically Puerto Rico and the U.S. Virgin Islands, has emerged as a vital strategic location for the introduction and transshipment of narcotics into the U.S. and Europe. The Puerto Rico area, according to Customs intelligence reports, has the highest rate of non-commercial maritime and airdrop smuggling activity of any Customs area.

On March 1, 1996, Customs initiated Operation Gateway. The mission of Operation Gateway is to achieve a complete and unified securing of Puerto Rico, the U.S. Virgin Islands, and their surrounding waters and airspace from narcotics smugglers. It is a cooperative plan that commits a sizable investment of funds, personnel, and equipment by Customs, with support from the Government of Puerto Rico. It is part of Customs overall plan to secure the Southern Tier of the U.S., from San Juan to San Diego.

Since the initiation of Operation Gateway, Customs narcotics enforcement activities in Puerto Rico have increased dramatically. In comparing March 1 through the end of December 1996, to the same nine months in 1995, cocaine seizures have risen 44 percent. Reflecting our enforcement initiatives, we have increased the number of examinations of full inbound containers by 143 percent.

CHALLENGES FOR CUSTOMS

While Customs has experienced much success in its drug interdiction efforts, challenges will continue to surface. As long as drug smugglers are flexible, greedy, and have almost unlimited resources to draw upon, we must be prepared to meet all challenges.

MONEY LAUNDERING

Although drug interdiction remains our highest priority, it is by no means the only challenge facing Customs at our borders. Customs also focuses on the most significant international criminal organizations whose corrupt influence impacts global trade, economic and financial systems. Our efforts are not limited to drug-related money laundering but the financial proceeds of all crime.

Customs has implemented an aggressive strategy to combat money laundering. Customs money laundering investigations yielded $258 million in currency seizures in fiscal year 1996. Customs also made the largest cash seizure to date at the U.S. border—$15 million in Miami, Florida.

Through our strategy, we will continue to enhance our asset identification and forfeiture capabilities with advanced training and the use of more sophisticated computer software for analytical purposes. Customs will also continue to develop information through interaction and training with foreign law enforcement personnel, prosecutors, judges, and legislators through domestic and international anti-money laundering awareness seminars. Finally, Customs will proceed to develop information on international money laundering organizations by participating in long-term advisor programs and cross-border reporting and information exchange programs pertaining to the movement of monetary instruments. Again, the focus will be on detecting the movement of all illicit proceeds, not just narcotic proceeds.

In addition, Customs is currently working with the Financial Crimes Enforcement Network on a regulatory initiative to make foreign bank drafts reportable. This would curtail a frequently used money laundering technique and help investigators trace criminal proceeds that have been reinvested or repatriated back to the U.S.

BORDER CORRUPTION

Customs knows all too well that the agency is vulnerable to the threat of corruption by the very nature of its work. Customs is dealing with an enemy that has vast resources at its disposal—organized drug cartels.

Fortunately, Customs has been able to effectively counteract criminal threats by two means: first, the vast majority of dedicated Customs employees will not and cannot be corrupted, and second, through the commitment of the Office of Internal Affairs (IA) to effectively pursue all allegations of corruption in a timely, professional and responsible manner.

Incidents of corruption are isolated situations and represent a very small percentage of Customs employees—approximately 0.3 percent. But Customs will never be complacent about the threat of corruption. The Office of Internal Affairs assesses all allegations that are received and conducts investigations based on analysis and the content of the allegation. The Customs Service is proud of its ability to detect and ferret out corruption within its ranks, yet in balance, a number of high profile investigations and special projects have consistently shown that widespread corruption does not exist in Customs.

In one significant investigation on the Southwest border, both Customs IA and the Treasury Inspector General found the reported corruption allegations to be unsubstantiated. In breaking new ground, the Customs Service requested the Federal Bureau of Investigation, as an independent entity, to conduct an objective outside investigation of existing information, reports and intelligence regarding alleged Customs corruption in the San Diego area of Southern California. The Customs Service provided complete support throughout the 17-month investigation. On August 22, 1996, the U.S. Attorney formally cleared Customs officials of allegations that they collaborated with drug traffickers at the Mexican border. A public announcement was made at the end of the investigation because of continuing media reporting of widespread corruption in Customs. The result of the FBI investigation revealed there was no basis for criminal prosecution.

The Office of Internal Affairs training staff prepared an integrity/ethics course for approximately 60 train-the-trainer personnel. These 60 employees then provided the ethics course to approximately 5,800 Customs employees along the Southwest border, South Florida, and Puerto Rico.

The Office of Internal Affairs is continuously reevaluating security controls, has initiated proactive integrity programs, and conducts operational investigations to minimize risks and to decisively deal with corruption issues. IA is also in the process of data base enhancements which will allow for more precise trend analysis, and adoption of an early assessment system to detect potential corruption indicators. Joint office integrity initiatives also include: the proper recruitment and selection of highly qualified individuals as Customs officers; full field investigative screening; rigorous training which includes integrity training and agency expectations of stringent standards of conduct, supported by a clearly defined table of offenses and penalties; and in-service ethics/integrity/bribery awareness training.

We understand the American people expect all of its public officials and law enforcement personnel to have integrity and be deserving of their complete trust and confidence. Customs will continue to do everything it can to assure that this trust and confidence are not shaken. The Customs Service places the highest value on integrity, and no amount of corruption, when detected, is tolerated.

INTERNAL CONSPIRACIES

Customs has recently been confronted with an emerging smuggling threat relating to "internal conspiracy" organizations who attempt to circumvent Customs targeting and examination processes by removing narcotics from cargo containers prior to inspection. There are virtually thousands of individuals, employed by the carriers, ports, freight forwarders, and contractors, who obtain certain information as to how, why, where, and when Customs examines cargo. These people are also knowledgeable about all the associated documentation, from entry through liquidation. They are the resident experts at all ports of entry and, if corrupt, are extremely valuable to any smuggling organization.

Smugglers, working through an internal conspiracy, are able to modify their mode of operation each and every day depending upon what they see Customs doing. These criminals tailor their methods and techniques port-by-port. The cost to business and industry is in the hundreds of millions of dollars; the cost to the American people is even greater.

There have been several recent Customs investigations whereby personnel who are working for airlines, steamship companies or seaport terminals have used their position and unrestricted access in ports of entry to engage in drug smuggling activities and/or conspiracies. When they successfully apply their knowledge in furtherance of criminal activity, i.e., drug smuggling, our border security and control is most vulnerable. In these types of conspiracies, the drug or other contraband is

removed prior to our border searches. Customs is currently involved in several major initiatives focused on internal conspiracies in various areas of the country.

MEETING THE DEMANDS OF INCREASED TRADE

In order to face the challenges of growing trade and reaching higher levels of compliance, Customs has undertaken innovative efforts in automation, outreach programs, and planning. These efforts are described below:

INFORMATION TECHNOLOGY

Information technology has become a critical enabler for Customs in serving the public and addressing the international trade and enforcement issues facing our Nation. Some notable initiatives implemented over the past year include the Automated Targeting System (ATS) pilot in Newark, the Trend Analysis Prototype (TAP) interface pilot in Savannah, Los Angeles and Seattle, and the Remote Entry Filing prototype. In addition, drawback claims can now be submitted electronically using the Automated Broker Interface (ABI). Other initiatives include the expansion of the Advance Passenger Information System (APIS) and the acquisition of non-intrusive Truck X-Ray Systems and Automated License Plate Reader Systems for installation at southern tier ports of entry.

As successful as the Automated Commercial System (ACS) has been over the years, it is just not robust enough to serve the processing needs of an increasingly complex trade environment. As a result, Customs has been working to replace the older system with a new, more sophisticated system called the Automated Commercial Environment (ACE).

The hallmark of ACE is that it moves from a transaction-based approach to an account-based system founded on compliance measurement and predicated on reengineered ways of doing business. Companies cooperating with Customs achieve mutually beneficial outcomes including raised compliance, minimized data requirements at time of release, and ability to make payments on a periodic basis. As compliance increases, the cost to Customs and to trade will decrease. The benefits of this approach will include uniform treatment, shorter processing time, more efficient information collection and dissemination, and greater opportunities to fulfill our enforcement mission. A full scale implementation plan for the roll out of ACE in its entirety is due in November of this year.

TRADE OUTREACH EFFORTS

Since passage of the Customs Modernization Act in December 1993, the Customs Service has engaged in extensive efforts to consult with the trade on how to improve Customs trade processes. All proposals to implement the Modernization Act are first put on the Customs Electronic Bulletin Board for informal comment. When needed, public meetings are held to explain proposals and solicit comments and suggestions. All of this routinely occurs before the formal Notice of Proposed Rulemaking is published in the Federal Register. The early consideration of trade concerns has resulted in better formal proposals. Drawback and record keeping are just two examples in which trade concerns resulted in vastly different formal proposals than originally contemplated. In addition, Customs has engaged in a major effort to improve the trade's compliance with Customs laws and regulations. These informed compliance efforts have included public meetings and seminars at the port and national levels, informed compliance publications on a variety of valuation and classification topics, videos on the textile rules of origin and compliance and a very informative Internet World Wide Web site and Electronic Bulletin Board. Our Website has been visited by over 5000 users in a single day. The Textile Origin video has been purchased by over 300 members of the trade. Over 250 copies of the Compliance video have been requested.

TRADE ENFORCEMENT PLAN (TEP)

Since December 1993, all trade-related activities of Customs have been driven by the Customs Modernization Act, which mandated shared responsibility between Customs and the importing community for achieving maximum compliance with U.S. trade laws and regulations. Each year, Customs prepares a Trade Enforcement Plan (TEP), which describes the role Customs will play in furthering the goal of maximum compliance. To create this plan, Customs assesses the principal threats to compliance with U.S. trade laws, develops a coordinated approach to confront those high impact national threats, and defines targeted areas, strategies, priorities, and intra-agency responsibilities and time lines for accomplishing these goals.

Customs most recent TEP builds on compliance measurement results and some compliance assessment results, which forms an integrated compliance system to assess the principle threats to compliance. This analysis aids Customs focus on high-priority or "Primary Focus" industries (PFI's) and issues that have a significant economic impact on the Nation.

In fiscal year 1996, the compliance rate for overall importation increased from 80 percent to 82 percent. Duty collections on imports remained in excess of 99 percent. Of particular note is that higher value importations had a significant increase in compliance, to a rate of over 86 percent. The cooperative effort with the importing community and domestic industry to address compliance issues can be credited with the improved performance of major importers.

PRIMARY FOCUS INDUSTRIES (PFI'S)

PFI's are commodity areas that will attract significant attention from Customs in every regard. By establishing a national focus on these product sectors, they will receive the level of attention which they warrant. Eight PFI's were determined by use of a number of factors, including strategic importance, international trade agreements concerns, quotas, duty, public health and safety, Intellectual Property Rights (IPR), and Gross Domestic Product/economic impact. The eight PFI's are: Advanced Information Displays (e.g., cathode ray tubes, flat panel displays); Agriculture; Automobiles and Automobile Parts; Critical Components (e.g., fasteners, bearings); Production Equipment; Steel Mill Products; Telecommunications; and Textiles.

PRIORITY COMMERCIAL ISSUES

Because not all important trade issues confronting Customs can be identified by industry sectors, additional specific and cross-cutting trade priorities were identified. Many of these were derived from earlier versions of annual Trade Enforcement Strategies, and others have been identified by various customers. The 12 priority issues are: Anti-Dumping and Countervailing Duty; Classification; Trade Statistics; Country of Origin Marking; Embargoes and Sanctions; Intellectual Property Rights; Trade Agreements; Public Health and Safety (pending other government agency participation); Transshipment; Quota Evasion; Revenue; and Valuation.

Clearly, many of these are cross-cutting over a range of products or source countries. Others link closely with the priority industries—textiles with quotas and transshipment, for instance. A few issues such as embargoes and convict labor are country-specific.

A new priority area, Revenue, has been added for the 1997 TEP. Concerns over the gap between revenues due and revenues collected, and our new ability to use compliance measurement to project a measurement of that gap, have enabled us to identify the scope of the issue and develop a Revenue Gap Subplan to address it.

NORTH AMERICAN FREE TRADE AGREEMENT (NAFTA)

The NAFTA trade enforcement Sub-Plan will form the basis for Customs efforts in assuring the highest level of compliance possible for NAFTA transactions in the coming year. The specific goals of this initiative are the development of a national plan for NAFTA compliance for U.S. Customs; avoidance of using NAFTA enforcement as an unintended non-tariff barrier; the effective use of the experience and knowledge of all Customs Officers; and the integration of Customs NAFTA efforts into a single effective process. Components of the 1996–97 NAFTA Sub-Plan include audit; compliance measurement; informed compliance; interventions and investigations; port-initiated verifications; and the Strategic Trade Centers.

Additionally, Customs ports have local initiatives for verifying the NAFTA claims for companies and commodities not selected nationally. Informed Compliance for NAFTA is being achieved through information dissemination by the Dallas NAFTA Center, video broadcasting, and port outreach.

CHANGES IN COBRA USER FEES

The NAFTA Implementation Act includes a provision to restore the Air and Sea passenger processing fee to $5.00 per entry, a reduction of $1.50 per entry, and again exempt passengers arriving from Canada, Mexico, and certain Caribbean Nations. These changes will take effect in fiscal year 1998. Customs estimates that the fee reduction and the restored exemptions will result in a $187 million decrease in collections from this fee.

FISCAL YEAR 1998 BUDGET REQUEST

Customs proposed appropriation for fiscal year 1998 totals $1,690,602,000 and 17,193 Full Time Equivalents (FTE) and reflects our highest budget priority for fiscal year 1998—ensuring adequate funding for effective operation of our programs within a constrained budget environment. Customs ability to perform its enforcement functions and collect revenue depends on a well-equipped, reliable infrastructure. The resources identified below are necessary to meet the broad and diverse mission requirements of the Customs Service and accept the realities of a growing workload.

INITIATIVES

Our Anti-Smuggling Initiative will provide the necessary resources for Customs to counter the increasing threat of narcotics smuggling in cargo shipments through South Florida and other high-risk ports of entry. The $23.4 million ($8.4 million and 119 FTE in Salaries and Expenses and $15 million from the Violent Crime Reduction Trust Fund) requested will provide us with the human and technological resources vitally necessary to continue the successes seen in Operation Hardline on the Southwest Border and Operation Gateway in Puerto Rico, the U.S. Virgin Islands, and the Caribbean.

The Land Border Passenger Automation Initiative of $11.5 million requested for fiscal year 1998 is a joint undertaking between Customs and the Immigration and Naturalization Service to provide both agencies with the technological tools to increase inspector effectiveness and safety, and expand the use of automated data capturing for query against enforcement databases. It will also provide valuable intelligence to federal law enforcement agencies on the movement of vehicles across our borders, and provide expanded service at low-risk ports through remote processing, offering the potential for a redirection of resources to higher risk activities.

This year's budget request also includes $5.5 million for a hangar to house the two new P–3 aircraft in Corpus Christi, Texas. We are also requesting $2.5 million to fund 27 additional FTE for the aircrew and related support personnel that will be needed to support these new aircraft.

To assist in the apprehension of individuals involved with the removal of unreported currency, weapons of mass destruction, and precursor chemicals, Customs requests $1.1 million from the Violent Crime Reduction Trust Fund to construct canopies for detailed inspection of suspect outbound vehicles at selected crossings. This enhancement will also provide our inspectors with some measure of safety from traffic flow while they concentrate on this important effort.

Our Operational Support Initiative is comprised of three components: Laboratory Modernization, Vehicle Replacement, and Agent Relocation. We are requesting an additional $5.7 million to enable Customs to upgrade its laboratories with state-of-the-art analytical instrumentation based on contemporary scientific approaches, required to adequately support the Customs mission; to develop analytical methods for the determination of country of origin of agricultural, petroleum, and textile products; and to maintain a continuous and intensive laboratory research program. Customs must successfully meet the new examination requirements of expanded international trade (textile transshipment, trade and narcotic enforcement, criminal investigations, forensic work, anti-dumping violations and compliance measurements). Laboratories, with modern, sophisticated analytical instrumentation, are especially important for protecting our Nation's trade interests.

Additional resources requested for Operational Support will also benefit our enforcement activities by replacing severely worn-out vehicles. By fiscal year 1998, approximately 83 percent of Customs vehicles will be eligible for replacement in accordance with General Services Administration replacement criteria. Without adequate funding, our vehicles will be potentially unsafe, inefficient, and very costly to maintain. We are requesting $10 million for this portion of the Operational Support Initiative.

Lastly, the Operational Support Initiative includes funding for agent relocation. This funding is requested to allow Customs to relocate agents to high-threat drug zones. Customs is currently only able to fund relocations at the expense of other priorities and has not been able to implement a comprehensive relocation program like other enforcement agencies. If this continues, Customs ability to respond to changing threats will be hindered, the morale and effectiveness of our agents will likely deteriorate, and the public's and Congress' perception of Customs ability to perform its mission will likely be damaged. Funding for this portion of the initiative, $4 million, is requested from the Violent Crime Reduction Trust Fund.

This concludes my statement for the record. Thank you again for this opportunity to appear before the Committee. You have provided tremendous support to the Customs Service in the past and I look forward to a very productive future working with you and your staff.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

STATEMENT OF CHARLES RINKEVICH, DIRECTOR

Senator CAMPBELL. Charles Rinkevich, if you would like to go ahead.

Mr. RINKEVICH. Thank you, Mr. Chairman.

Chairman Campbell and Senator Kohl, thank you very much for this opportunity to appear before you. I join with my colleagues and Under Secretary Kelly in also thanking you for the support that you have shown for Treasury law enforcement and particularly for the Federal Law Enforcement Training Center [FLETC].

COST SAVINGS

Because of the existence of FLETC, the Government avoids the cost of some $108 million in per diem savings and $35 million in facility closure savings for a total of $143.1 million in savings in duplicative training facilities around the country. The strength of the Center is in the consolidated nature of its organization. This budget request before you for 1998 has some significant features and I will summarize those and the rest of my long statement has been submitted for the record.

FLETC GROWTH

The most significant part of this budget request is the initiative to support the direct cost of basic training. As you know, the workload of the Center, because of the growth of Federal law enforcement over the course of the last several years, has grown significantly.

NUMBER OF GRADUATING STUDENTS

To give you a better fix on that, in 1996, the Center graduated about 19,300 students. In 1997, we anticipate graduating over 29,000 students and for the fiscal year 1998, which this budget request covers, we will graduate in excess of 31,000 students. This is a direct result of the buildup that is occurring principally within the Immigration and Naturalization Service, but also with the Customs Service, Secret Service, and others that have Federal law enforcement responsibility.

BUDGET REQUEST

Our budget request before you is for $100,832,000. This is the largest budget request that the Center has ever submitted with an FTE request of 527 full-time equivalency positions. When you add to that the amount of funds that we will receive in reimbursement costs for services we provide to the agencies that are not included in our budget, the total budget that we will administer at FLETC is close to $120 million.

INITIATIVES

There are seven initiatives within our salaries and expenses account, most of which are due to the workload growth, and two initiatives in our construction account. I will not go into the detail of those but reserve the time with you and the Committee for questions on them.

COMMITMENT AND SUPPORT

Again, let me say, thank you for the support that this Committee has shown in the past and the obvious personal commitment and support that you and the Committee have for Treasury law enforcement and the Center.

Thank you.

PREPARED STATEMENT

Senator CAMPBELL. Thank you, Mr. Rinkevich. Your complete statement will be made part of the record.

[The statement follows:]

PREPARED STATEMENT OF CHARLES F. RINKEVICH

Mr. Chairman and Members of the Subcommittee, I am pleased to be here today to report on the current operations and performance of the FLETC and to support our appropriations request for fiscal year 1998. The Center has seen tremendous growth since its establishment in 1970 when a handful of agencies joined together and established the Consolidated Federal Law Enforcement Training Center. The Department of Treasury has been the lead agency for the United States Government in providing the administrative oversight and day-to-day direction for the FLETC since its creation. Under the leadership of Secretary of the Treasury, Robert E. Rubin; and Under Secretary for Enforcement, Raymond W. Kelly, the FLETC has received strong support and active assistance for carrying out its responsibilities. We are indeed fortunate to have these two distinguished individuals playing a leadership role as the FLETC prepares to embark on the next century. This Committee, Mr. Chairman, also is owed a debt of gratitude. Throughout our 27 years of service to Federal law enforcement, this Committee has been most generous in its funding of consolidated training and its oversight role. We extend our appreciation and look forward to working with you.

There are now 70 agencies which train at the Center, and we expect this growth to continue as more agencies recognize the many benefits of consolidated training. The Administration and Congress can be proud of the quality of the training being provided at the FLETC and the savings realized through consolidation. FLETC's success is the direct result of the strong support we have received from Treasury leadership, this Committee, and our participating organizations.

Today, I am prepared to discuss a number of our initiatives outlined in the President's fiscal year 1998 budget. The Center's fiscal year 1998 request is for a Salaries & Expenses (S&E) appropriation of $68,284,000 and 527 FTE, an increase of $12,099,000 and 45 FTE from the fiscal year 1997 level. The S&E request includes 3 FTE and $2,621,000 in Crime Bill funds. Our request for Acquisition, Construction, Improvements & Related Expense (ACI&RE) is $32,548,000, an increase of $10,964,000 from the fiscal year 1997 level. Crime Bill funding in the amount of $21,437,000 is included in the ACI&RE request. The S&E and ACI&RE funding requested will support nine important initiatives: Mandatory Basic Training Workload Increase ($5,614,000 and 26 FTE); New Training Building Support ($1,044,000 and 6 FTE); Occupational Safety and Health Compliance ($400,000 and 1 FTE); Training Operations Support ($2,239,000 and 5 FTE); Rural Drug Training ($1,000,000 and 3 FTE); Environmental Compliance ($111,000 and 1 FTE); Fiber Optics ($3,001,000 and 1 FTE); Minor Construction and Maintenance ($492,000); and Master Plan ($18,618,000). The Fiber Optics and New Training Building Support initiatives are split between the S&E and ACI&RE accounts because of the nature of the initiatives. A breakout of the funding between the accounts for those initiatives is as follows:

—Fiber Optics—S&E, $182,000 and 1 FTE; ACI&RE, $2,819,000; and

—New Training Building Support—S&E, $769,000 and 6 FTE; ACI&RE, $275,000.

The S&E and ACI&RE request, including the Crime Bill funding, represents an increase of $23,063,000 over the fiscal year 1997 level. Coupled with $18,709,000 in funds to be reimbursed to us for training related services, our total budget for fiscal year 1998 is $119,541,000.

Before providing this Committee with an overview of Center operations, I would like to take a moment and address progress being made in complying with the requirements of the Government Performance and Results Act. As you know, Congress passed, and President Clinton signed, the Government Performance and Results Act, known as GPRA, in 1993. Starting in 1997, GPRA requires agencies (1) to publish strategic plans covering at least five years, (2) to publish annual performance plans which include measurable goals, and (3) after the year is completed, to report on actual performance. This law is intended to fundamentally change Federal management and accountability from a focus on inputs and processes to a greater emphasis on outcomes and programmatic results. In essence, GPRA requires that we tell you what each of our programs is intended to do in the long term, specifically what we intend to achieve each year, and finally, what we did achieve.

The Center and the Treasury Department have embraced GPRA and have begun implementing it early. The FLETC began the process of drafting its strategic plan in fiscal year 1994. We involved numerous levels of the FLETC and participating agency staff in the planning process, and a draft of the plan was completed and approved by the Center's Board of Directors in July 1995. A copy of that plan was also provided to the staff of this Committee for review and comment during 1995. Since that time we have been working with the Department of the Treasury and the Office of Management and Budget to ensure that our plan fully complies with all GPRA requirements by September 1997. We feel that the broad based approach followed by the FLETC in developing its strategic plan has resulted in a realistic and achievable plan which reflects organizational goals that will garner strong support from both the FLETC and participating agency staffs.

Performance plans required by GPRA are now an integral part of the budget documents sent to you each year. In our fiscal year 1997 budget request last year, we incorporated measures of program performance in addition to the traditional output-oriented workload measures. As you know, good measures of program performance are not always available. Ours are not perfect. However, we believe that we are making progress in developing meaningful, quantifiable measures for our programs. As we gain more experience, we hope to improve on the performance measures we use, and we would welcome any suggestions or feedback you would like to provide in this area.

Included in our budget request this year is a report on whether or not we achieved each of the targets we proposed for the most recently completed fiscal year (fiscal year 1996). The performance measures used for law enforcement training in fiscal year 1996 included: (1) student quality of training survey, (2) student weeks trained, (3) students trained, and (4) variable unit cost per basic student week of training funded. Plant operations performance measures include student quality of services survey. The student quality of services survey and student quality of training survey performance measures are outcome measures. The overall student quality of training index is based on a seven point scale, and the overall student quality of services index is based a five point scale. Both indices are computed using evaluations completed by students attending Center programs. This data is collected for the Center's automated Student Feedback System (SFS) using a form on which students are asked to evaluate the quality of Center programs, instructional staff, facilities, and services. I will discuss the SFS in more detail later. The variable unit cost per basic student week of training funded is also an outcome measure and is based on training dollars divided by funded student weeks of training. The final two measures, students trained and student weeks of training, are output measures and show the student workload at the Center.

I want to take this opportunity to correct an error in the Center's 1996 GPRA performance report as shown in the FLETC's fiscal year 1998 budget submission. Both the target and the actual indices shown for the Student Quality of Training performance measures and Student Quality of Services performance measures are incorrectly recorded. The target and actual indices for Student Quality of Training should have been "5.0" and "5.5" respectively. The target and actual indices for the Student Quality of Services should have been "4.0" and "4.0" respectively. This error was discovered after our budget was furnished to Congress.

With those corrections in mind, I am pleased to report that the Center's performance against established targets was excellent overall. The index for the most critical performance measure in our plan, the Student Quality of Training Survey meas-

ure, was "5.5". This is above the Center's existing standard and performance plan target of "5.0". The Student Quality of Services actual performance index was "4.0" which equals our performance target measure of "4.0".

The performance targets for Students Trained and Student-weeks Trained as shown in the performance plan were not met. While the workload conducted was somewhat less than the initial projections and the targets in our performance plan, the FLETC did conduct 100 percent of requested basic training in fiscal year 1996. Because workload estimates used in the performance plan are based on Spring 1994 estimates of our customers, it is not surprising to find that there is a variance between the targets and actual workload. The budget process requires that the Center's participating agencies provide these estimates well in advance of funding actions by the Congress and Administration. Although estimates are based on the best available data and the agencies' best guess at the time, changes in Congressional and Administration policy and initiatives that occur in the interim can and do have a dramatic impact on the outcome of actual workload. Therefore, the best measure of the FLETC's performance in this area is whether the Center provided 100 percent of the basic training requested, which in this case we did.

The same categories of performance measures used in fiscal year 1996 will be used in fiscal year 1997 and fiscal year 1998. However, as I stated earlier, the FLETC will continue to refine existing performance measures and/or identify new performance measures in an effort to more accurately reflect its performance and provide this Committee with the information it needs to make informed budget decisions. I believe that this system—setting strategic goals and strategies for the long term, setting annual targets, managing to achieve those targets, and reporting on annual performance—will help all of us manage the Center's programs more efficiently and effectively.

In reviewing our request, and later in our discussions today, I am sure you will find that there is a strong and direct relationship between our budget initiatives and the mission and goals outlined in the Center's strategic plan. That mission is to provide quality, cost effective training for law enforcement professionals. It is a vitally important mission and is essential if we are to equip our law enforcement personnel with the skills necessary to deal with increasingly sophisticated and violent crimes.

Four key strategic goals guide the Center in fulfilling its mission. They are:

—Provide high quality training for law enforcement;

—Develop, operate, and maintain state-of-the-art facilities;

—Effectively organize, develop, and lead FLETC's personnel in support of the Center's mission; and,

—Strengthen partnerships among participating organizations and the FLETC.

The initiatives outlined in our fiscal year 1998 request directly support the mission of the Center and can be tied to one or more of the goals in the Center's strategic plan. Equipment and FTE's requested under Salaries and Expenses for Mandatory Workload, Environmental Compliance, New Training Building Support, Occupational Safety and Health Compliance, Rural Drug Training, Fiber Optics, and Training Operations Support are essential if the Center is to provide quality training that is responsive to needs of its customers. Failure to fund these initiatives could result in a degradation of the services and jeopardize training, putting the Center in a position where it could not meet its customers' training requirements. For example, not complying with environmental and health safety issues could endanger the health of the FLETC and participating agency personnel. It could result in closure of certain facilities and adversely impact on FLETC's ability to provide the training requested by its participating agencies.

Funding requested in the ACI&RE account will allow the Center to continue implementation of its Master Plan for facilities expansion and provide the necessary data and voice communication and facilities maintenance support for the training requested by our participating agencies. Continued implementation of the Master Plan is necessary if we are to avoid the need to invest in costly temporary facilities to meet the training needs of our customers during periods of peak demand. Additionally, temporary facilities adversely impact on the quality of training provided and the quality of life of the student, even though we take steps to mitigate that impact as much as we can. I will discuss this issue more fully, later in my testimony.

OVERVIEW OF OPERATIONS

Now Mr. Chairman, if I may, I would like to provide the Committee with a brief overview of the operations of the Federal Law Enforcement Training Center.

The Center was established by a Memorandum of Understanding in 1970 and has experienced tremendous growth over the last 27 years. We currently conduct basic and advanced training for the majority of the Federal Government's law enforcement personnel. We also provide training for state, local, and international law enforcement personnel in specialized areas and support the training provided by our participating agencies that is specific to their needs. Currently, 70 Federal agencies participate in more than 200 different training programs at the Center.

There are entry level programs in basic law enforcement for police officers and criminal investigators, along with advanced training programs in areas such as marine law enforcement, anti-terrorism, financial and computer fraud, and white-collar crime. Training is conducted at either the main training center in Glynco, Georgia; our satellite training center in Artesia, New Mexico; or a temporary training facility in Charleston, South Carolina.

The temporary training site in Charleston was established in fiscal year 1996, to accommodate an unprecedented increase in the demand for basic training by the participating agencies, particularly that of the Immigration and Naturalization Service (INS) and United States Border Patrol (USBP). It is the direct result of recent Administration and Congressional initiatives to control illegal immigration along the United States borders and to protect Federal workers in the workplace.

In addition to the training conducted on-site at one of the FLETC's residential facilities, some advanced training, particularly that for state, local and international law enforcement, is exported to regional sites to make it more convenient and/or cost efficient for our customers. The tremendous demand for basic training over the next three years will increase the FLETC's reliance on export training sites to meet these advanced training requirements. The Center's driver and firearms special training facilities cannot accommodate all of the training being requested. Therefore, much of the advanced training requiring the use of special training facilities will have to be accommodated elsewhere.

Realizing that a short-term solution was needed to meet the advanced training needs of our customers, the FLETC began to identify state and local training facilities that could be used to accommodate this training in early 1996. We are now discussing with several of these non-Federal organizations the use of their facilities on a reimbursable basis. Once discussions are complete the Center will be in a position to facilitate the scheduling of the training at these sites and assist our customers in meeting their advanced training needs.

Over the years, the FLETC has become known as an organization that provides high quality and cost efficient training with a "can do" attitude and state-of-the-art programs and facilities. During my association with the Center, I have seen firsthand the many advantages of consolidated training for Federal law enforcement personnel, not the least of which is an enormous cost savings to the Government. Consolidated training avoids the duplication of overhead costs that would be incurred by the operation of multiple agency training sites. Furthermore, we estimate that consolidated training will save the government $108,100,000 in per diem costs alone during fiscal year 1998. This estimate is based on projected fiscal year 1998 workload and per diem rates in Washington and other major cities of $152/day versus the cost of housing, feeding, and agency miscellaneous per diem of $25.26/day for a student at Glynco. Consolidation also ensures consistent high quality training and fosters interagency cooperation and camaraderie in Federal law enforcement.

We view FLETC and consolidated training as a National Performance Review concept ahead of its time. Quality, standardized, cost-effective training in state-of-the-art facilities, interagency cooperation, and networking are indisputable results of consolidation. However, the concept of consolidated training is fragile and needs constant nourishment and support if it is to remain intact.

WORKLOAD

As I mentioned earlier, the Center is facing an unprecedented increase in its training workload that began in fiscal year 1996 and is projected to continue through fiscal year 1999. The majority of the increase in training workload is the result of the fiscal year 1995 initiative by the Administration and Congress to increase the effectiveness of the INS in controlling our borders by increasing the number of INS and USBP law enforcement personnel. Other factors contributing to the Center's increasing workload include security enhancements at Federal facilities and new Federal prisons coming on-line.

During fiscal year 1996, the Center graduated 19,352 students, representing 88,792 student-weeks of training. This total included 15,689 students who were trained at Glynco, Georgia, 1,562 students trained at Artesia, and 2,101 students trained in export programs conducted at various locations throughout the United

States. There were 9,106 basic students; 7,704 advanced students; 1,959 state and local students; and 583 international students trained equating to an average resident student population (ARSP) of 1,708. Although the total of students trained was below the performance targets established for fiscal year 1996, the Center did provide 100 percent of the basic training requested by its customers. The performance targets established for fiscal year 1996 were based on Spring 1995 projections of the 70 agencies we serve. These projections are made in advance of appropriations. Because of circumstances beyond the control of the agencies or the FLETC, the projections changed by the start of the fiscal year, and fewer training requests materialized.

In April 1996, participating organization projections indicate that during fiscal year 1997, the Center will train 29,531 students representing 135,691 student-weeks of training. This total includes 26,736 students to be trained at Glynco; 1,049 students at Artesia; 1,392 students at the temporary site in Charleston; and 354 students in export programs. A total of 13,517 basic students; 13,207 advanced students; 2,292 state and local students; and 515 international students are projected for a total ARSP of 2,609.

Our participating agencies indicate that during fiscal year 1998, we will train a total of 31,143 students representing 137,297 student-weeks of training. This total includes 24,242 students at Glynco; 4,153 students at Artesia; 1,392 students at Charleston; and 1,356 students in export programs. A total of 13,587 basic students; 14,694 advanced students; 2,356 state and local students; and 506 international students are projected for a total ARSP of 2,640.

The Center has seen enormous growth in the training demanded by its participating agencies over the past decade. We have been able to accommodate many, but not all, of these increased training demands by being innovative and undertaking extra-ordinary measures.

To accommodate training during fiscal year 1985 and again in fiscal year 1989, the Center had to temporarily expand its capacity for housing, dining, classroom, office space, storage, and special training facilities by using temporary buildings and contracted or licensed temporary facilities. Further, the Center has not always had space to accommodate all of our students in on-Center housing and has used contractual arrangements with local motels to house our overload. Many of the temporary measures taken to meet these training demands were costly, and they adversely impacted the Center's operations.

The Center is again in a position where it has had to resort to using a temporary facility to meet the training needs of its participating agencies. As I mentioned earlier, a temporary training facility was established in Charleston, South Carolina, during 1996 because our current facilities do not have the capacity to accommodate all of the training being requested. It is primarily being used to conduct USBP training that cannot be accommodated at the Glynco and Artesia training Centers. Plans call for Charleston to be closed after 1999, once the training requirements for the Border Patrol buildup are completed. Sufficient capacity should then exist at Glynco and Artesia to meet projected training requirements of our participating agencies.

This is the third time since fiscal year 1985 that FLETC has taken extraordinary measures to meet the training demands of its participating agencies. More importantly, it is the second time in the last eight years that a temporary training facility has had to be established. A temporary training facility was established at Ft. McClellan, Alabama, in 1989 to meet a similar increase in the USBP training workload.

Opening temporary training facilities is a time-consuming and an expensive process. Capital improvements must be made to bring the facility on line and, unlike capital improvements made at Glynco or Artesia, there is no permanent return on that investment. The dollars expended are lost when the facility is closed. It also impacts the cost effectiveness of the training provided and on the student's quality of life and overall training experience. However, as was done in 1989, the Center is taking steps to mitigate any impact the temporary training facility might have on the quality of training provided. We are extremely proud of our reputation for providing high quality, cost effective training and will take the steps necessary to ensure that the quality of training provided at Charleston remains high.

FACILITIES MASTER PLAN

Now, Mr. Chairman, if I may, I would like to brief you and the other Committee members on progress being made in expanding the FLETC's facilities. The Master Plan, presented to Congress in June 1989, provided a basis for the efficient and orderly development of the Center's land and facilities resources. It was and is a com-

prehensive blueprint to guide the expansion of the Center so that it can more effectively support the present training workload as well as the workload projected for the future. The original plan called for a total investment of $86,010,000.

Over the years the Master Plan has been updated to refine earlier estimates and incorporate changes necessary to meet the evolving training needs of our customers. In April of 1996, a copy of the most recent update was provided to the Congress. It shows that approximately $121,346,000 is needed to completely fund the Master Plan. Through fiscal year 1997, Congress has appropriated $62,757,000, or about 52 percent of the funds needed. Of this amount $48,904,000 was for Glynco projects and $9,715,000 was for Artesia projects.

At Artesia, major projects that have been completed include: rehabilitation of the Cafeteria/Student Center complex and Main Classroom building; construction of a physical training complex, completed in October 1991; interim driver/firearms ranges, completed in 1991; a much needed road and sidewalk network at the Artesia main campus, completed in 1992; permanent firearms ranges, completed in 1993; and a driver/firearms administrative support/classroom building, completed in 1996. At Glynco completed projects include: a dormitory, completed in April 1993; an expansion of the indoor firearms range complex, completed in August 1993; consolidation/expansion of the physical techniques facility, completed in October 1993; an expansion of the cafeteria, completed during 1994; an addition to our Steed classroom building (two state of the art classroom buildings), completed in May 1996; and an expansion of our driver training complex (the addition of control tower, defensive driving and highway response ranges), completed in February 1997.

The Center's fiscal year 1998 ACI&RE request is in the amount of $32,548,000 and includes $18,618,000 to continue implementation of the Master Plan. The Master Plan funds requested will complete funding of Phase I Master Plan projects at Glynco and provides funds for many of the Phase II and III projects. Projects that would be funded at Glynco include among others: a Firearms Multi-Purpose Building, the Student Activity Center, renovation of the Auditorium/Conference Center, Warehouse Expansion, office space, and, a Student Registration Facility. Artesia projects that would be funded include: a Front Gate Security Building, Physical Training Expansion, and, an Office Building.

This Master Plan initiative supports goal two in FLETC's strategic plan. That goal is to develop, operate, and maintain state-of-the-art facilities and systems responsive to interagency training needs. Funding is required if the Center is to meet the training needs of its customers. Not funding these initiatives will result in the continued reliance on the more costly method of establishing temporary training facilities to meet training requirements. It also endangers the concept of consolidated training as the larger agencies look at alternatives, such as individual agency sites, to meet their training requirements.

The Center continues to consult closely with its participating agencies so that the design features of each project will meet current and future needs. This close consultation sometimes prolongs the period it takes to design and construct facilities; however, we feel the time and effort are well spent because it ensures that funds are efficiently and wisely used.

Obviously, changing events have and will continue to dictate modifications to the various projects outlined in the Master Plan. I assure you that we will continue to work through the Treasury Department, Office of Management and Budget, and the Congress in dealing with these changes.

Mr. Chairman, I want to thank you and members of the Subcommittee for the support given the Center in its Master Plan development and implementation. We are pleased and grateful that Congress has seen fit to appropriate the funds necessary to expand our facilities and better equip the Center to meet the training needs of our customers. Only by doing so is the concept of consolidated training nurtured and strengthened.

Now, if I may Mr. Chairman, I would like to take this opportunity to briefly discuss the eight remaining initiatives in the Center's fiscal year 1998 budget request which I briefly referred to earlier in my testimony.

MANDATORY BASIC TRAINING WORKLOAD INCREASE

In our fiscal year 1998 request the Center is asking for $5,614,000 and 26 FTE to support the direct cost of basic training. As I discussed in some detail already, the Center is faced with an unprecedented increase in its workload over the next three years. This initiative will allow the Center to fund 100 percent of the direct cost of the discounted projected basic training in fiscal year 1998 and supports goal one in FLETC's strategic plan.

Our request is in accordance with the current OMB/Treasury/FLETC policy that requires funding of the direct cost of basic training. The participating agencies do not request funding for these costs in their budget submissions and are fully expecting and relying upon the FLETC to provide that funding.

NEW TRAINING BUILDING SUPPORT

As I touched on in my testimony earlier, the Center is requesting $1,044,000 and 6 FTE for new training building support ($769,000 and 6 FTE in S&E and $275,000 in ACI&RE). The funding and FTE requested is necessary to support the operation and maintenance of new facilities that have already come on-line or will be coming on-line at both Glynco and Artesia. At Glynco these include the Driving Range Expansion, two Classroom Buildings, and the Computer Training Facility. In Artesia it includes an Administration Building, Front Gate Building, and Security Systems. The FLETC's request provides the necessary resources and personnel to support operation of the new facilities including utilities, contracts (janitorial/grounds maintenance), and minor construction and maintenance. It is essential to protect the Government's investment in these facilities and supports both goals one and two in FLETC's strategic plan.

ENVIRONMENTAL COMPLIANCE

Too often in the past, FLETC's compliance with environmental requirements has been on an emergency response basis with costs absorbed from existing resources. However, increasing requirements under environmental legislation and shrinking budgets make it impossible to be in compliance without additional funding.

Environmental compliance is non-discretionary. The FLETC must be properly funded for the design and implementation of pollution prevention, hazardous waste, and recycling programs if it is to fully comply with environmental laws, regulations, and executive orders. In fiscal year 1997, funding was provided to move the FLETC closer to full compliance. The $111,000 and 1 FTE in our fiscal year 1998 request will allow the FLETC to fully comply with existing environmental laws and regulations. It will ensure that the health and safety of FLETC employees and students, as well as those of the citizens living adjacent to the FLETC, is protected.

Examples of costly and serious environmental requirements that will be addressed by this initiative include: removal and disposal of underground storage tanks; analysis of solid waste discovered during construction; testing of water for lead; analysis, handling, and disposal of lead paint during renovations; and maintaining and disposal of hazardous waste generated by the Center's firearms, driver training, printing, photography, and medical operations. The requested funding will provide the necessary staffing to address these important and significant health issues. It is essential in light of the Center's environmental law obligation. If not funded, some of the Center's training operations could be adversely affected. A worst case scenario is that FLETC could be forced to discontinue some of its training operations. This request supports goals one, two, and three in the FLETC's Strategic Plan.

OCCUPATIONAL SAFETY AND HEALTH COMPLIANCE

The head of each agency is required to ensure that the agency's budget submission includes sufficient resources to effectively implement and administer an Occupational Safety and Health Program. Although the FLETC has been able to utilize existing resources to comply with rules and regulations in the past, the expansion and aging of the Center's facilities, increasing training workload, and new requirements such as those dealing with Blood Borne Pathogens and Hazardous Material Management have outpaced resources and the Center's ability to fully comply with all requirements. Therefore, the FLETC must have additional resources if it is to have an effective program. Funding is essential in light of the FLETC's obligations under existing occupational health and safety laws and regulations.

Our fiscal year 1998 request includes $400,000 and 1 FTE to support the required occupational safety and health program. An effective program at the FLETC is essential given the importance and nature of the Center's training mission and the grave safety risks it poses to both students, staff, and the surrounding community. Again, as in the previous initiative, this request support goals one, two, and three in the FLETC's strategic plan.

FIBER OPTICS

The current underground telephone cable plant at Glynco is owned and maintained by the local BellSouth Telephone Company. It is old, has reached its capacity and cannot provide the necessary services for the Center and its customers to oper-

ate effectively and efficiently. Because of restrictions imposed by divestiture, BellSouth cannot increase current capacity to meet the forecasted communications requirements of the FLETC. The best alternative is for the FLETC to invest in its own fiber optics plant. This initiative requests $3,001,000 ($182,000 and 1 FTE in S&E and $2,819,000 in ACI&RE) for the first phase of a $7,500,000 two-phase project. The request will start the site preparation, infrastructure work, and cabling of the facility. The second phase of the project would include completion of phase one and purchase and installation of remote mode switches and building wiring. Funding for the second phase would be requested in fiscal year 1999.

By investing in a fiber optics plant, the FLETC can migrate to a modern comprehensive telecommunications system. The Center will be able to use current technology, adapt to new technology as it evolves, and expand automation into new areas as the need arises. This initiative will allow the FLETC to meet the current and future communications requirements of the FLETC and its customers including: high-speed data communications, Integrated Services Digital Network, video conferencing, imaging, message services, and the exchange of information among users both locally and at satellite facilities. This initiative supports goals one and two in the FLETC's Strategic Plan.

TRAINING OPERATIONS SUPPORT

The Center is requesting $2,239,000 and 5 FTE for training operations support in fiscal year 1998. As I mentioned earlier, the Center's training workload has increased dramatically in fiscal year 1997 and is expected to stay at that level through fiscal year 1999. This request will provide the necessary FTE and resources to support this increased workload.

The Center's current base funding and FTE resources are sufficient to support a basic training workload of approximately 58,000 student-weeks. However the fiscal year 1998 training workload is expected to be approximately 95,000 student-weeks, an increase of 37,000 student-weeks of training. Our request represents the minimum increase needed to support the fiscal year 1998 basic training workload. It will provide the funding for workload-driven increased requirements in: equipment (primarily training equipment), service contracts (security, janitorial, and lead removal), communications, utilities, and staff travel. Additional administrative support personnel in the areas of training, finance, procurement, property, and planning are also needed to support this workload. This initiative supports goals one, two, and three of the FLETC's Strategic Plan. If not approved, the Center will not be able to properly support its basic training mission.

RURAL DRUG TRAINING

In the fiscal year 1994 Crime Bill, FLETC was authorized $1,000,000 for Rural Drug Training. However, funding was never approved in support of this initiative. Therefore, the Center is requesting funding to support the Rural Drug Training initiative in fiscal year 1998. The request is for $1,000,000 and 3 FTE. It will allow the Center to provide 4 training programs to address the drug enforcement training needs of small rural law enforcement agencies. The programs are:

—Drug Enforcement Training Program (DETP)
—Rural Crime Drug Enforcement Task Force Training Program (RADE)
—Airborne Counterdrug Operations Training Program (ACOTP)
—Advanced Airborne Counterdrug Operations Training Program (AACOTP)

This initiative supports goal one in FLETC's Strategic Plan.

MINOR CONSTRUCTION AND MAINTENANCE

Finally, Mr. Chairman, the Center is requesting an increase of $492,000 in its minor construction and maintenance funds. This request will allow the Center to comply with the requirements of Elective Order 12902 (EO), Energy Efficiency and Water Conservation at Federal Facilities, which requires that energy efficiency be accomplished over the next nine years.

To meet the energy efficiency targets set by the EO, the FLETC will have to replace existing lighting at both the Glynco and Artesia training centers with modern energy efficient lighting. Although the Center has been funded for maintenance and minor construction (MCM) for the past twelve years, the existing base funding has not kept pace with facility expansion. It is not sufficient to meet current MCM needs and must be increased if the Center is to meet the requirements of the Executive Order without negatively impacting other operations. If this initiative is not supported, the Center will have to draw on existing resources and either reduce facility maintenance or reduce activities in support of training to meet the requirements of the EO. Reducing facility maintenance will endanger the Government's investment

in facilities while reducing activities in support of training will negatively impact on the Center's mission. This initiative supports goals one and two in FLETC's Strategic Plan.

Now, Mr. Chairman, if I may, I would like to take a moment and briefly update the Committee on activities of our satellite training center in Artesia, New Mexico, and the activities of our National Center for State, Local and International Training.

ARTESIA OPERATIONS

The Artesia center was purchased and became operational in 1989. Training facilities at Artesia include a 164-room dormitory, cafeteria with seating to serve 270 persons per sitting, and a physical training complex. There are 22 general purpose classrooms which will accommodate up to 730 students. Special purpose classrooms include a 24-person computer classroom and a 24-person fraudulent document lab. Other specialized facilities at Artesia include practical exercise areas, a mock courtroom, driver training and firearms ranges, an obstacle course, 31-breakout rooms, and a rappelling tower.

The Department of Interior's Bureau of Indian Affairs (BIA) Indian Police Academy moved to Artesia during 1993. In addition to the BIA training that is conducted, Artesia also serves as an advanced training site for students posted in the Western United States. Additionally, because of its diverse special training facilities, it can accommodate overflow basic training that cannot be done at Glynco because of space limitations. Artesia is playing and will continue to play an important role in meeting the training requirements of the INS over the next three years.

During fiscal year 1996, the Center trained 1,562 students at Artesia. In fiscal year 1997, our latest estimates indicate that we will train 3,463 students. April 1996 projections by our participating agencies indicate that 4,153 students will be trained in fiscal year 1998. The majority of the increase in the fiscal year 1998 training workload is due to the advanced training requirements of the INS, USBP, Bureau of Prisons, and Fish and Wildlife Service.

Other users of Artesia in addition to those already mentioned above include the Bureau of Land Management, National Marine Fisheries Service, and the FLETC's National Center for State, Local and International Training.

The expansion of the Artesia center as authorized by the Congress is continuing essentially as planned. As I mentioned earlier in my testimony when discussing the Master Plan, many of the Artesia Master Plan projects have been completed and are in use. Nine modular buildings have also been installed to accommodate the increase in training workload resulting from the INS buildup, and the Center recently approved the final design drawings for the expansion of the Artesia dormitory to add an additional 76 rooms. Additionally, the Center received Master Plan funding in its fiscal year 1997 appropriation for a much needed Classroom Building/Practical Exercise Complex at Artesia, and initial planning for that project is underway.

NATIONAL CENTER FOR STATE, LOCAL, AND INTERNATIONAL

Glynco's National Center for State, Local, and International Training was established in 1982 by the President to provide much needed training for state and local law enforcement agencies. Since its inception, the National Center has received broad support from the Federal, state, and local law enforcement communities. They provide subject matter experts for course and program development as well as instructional services.

The National Center is charged with training personnel from state, local and international law enforcement agencies in advanced topics designed to develop specialized law enforcement skills. By combining the expertise of the participating agencies' and FLETC's staffs with the specialized training facilities already available at the FLETC, the Center is able to provide participants with instruction in advanced programs that meets their specific needs. In most cases the training enables these agencies to be more supportive of Federal agencies and their missions.

During fiscal year 1996, there were 1,959 state and local students trained through the National Center in more than 40 advanced training programs. In fiscal year 1997 we expect to train 2,292 students. In fiscal year 1998 we project that 2,356 state and local students will receive training through the National Center.

Because of the success of the National Center, many of these programs are being conducted on an export basis at sites across the country, including our Artesia center. This has proven to be a cost effective method to provide training to state and local agencies. Additionally, exporting training to state and local academies and other locations throughout the country increases the Center's visibility and leads to improved cooperation between the Center and state and local agencies.

In addition to training Federal, state, and local law enforcement officers, the FLETC's National Center provides training assistance to selected foreign governments in a variety of ways including operational briefings, technical assistance, and hands-on training programs. The same network and support structure in place to assist state and local agencies in meeting their training needs makes the National Center a logical focal point for international training at the FLETC.

The FLETC has been involved in foreign training for more than 20 years. Since 1979 the FLETC has provided training to more than 5,000 foreign law enforcement officials from more than 102 countries. Training has been provided at the Center (on a space available basis) or abroad with recent training focusing primarily on the areas of international banking and money laundering, financial fraud investigations, and telecommunications fraud.

The number of foreign training requests have grown substantially in the last few years, with student weeks of training increasing by more than 200 percent since 1994. Two Administration and Congressional initiatives, the Freedom Support Act and the Support for Eastern European Democracies Act, are responsible for much of the upsurge in foreign training. As you know, these acts provide law enforcement technical assistance in combating organized crime, financial crime, and narcotics trafficking to Russia, the newly independent states of the former Soviet Union, and other eastern European countries.

The majority of recent training has been provided under the sponsorship of the Department of State's Office of Antiterrorism Assistance and Office of International Criminal Justice. During the last two years programs have been conducted in Russia, Poland, and Hungary, with training to be conducted this fiscal year in Romania and Moldavia. In addition to this training, the FLETC also provides instruction in financial crimes to students attending each session of the program conducted at the International Law Enforcement Academy in Budapest, Hungary.

The FLETC maintains frequent contact and liaison with several foreign law enforcement academies, such as the Royal Canadian Mounted Police Academy, Bramshill Police College in England, and the Australian Police Academy to further collaborative efforts in training related to transnational crime. Additionally, in January of this year, the FLETC, in partnership with the Department of State's Antiterrorism Assistance Program, sponsored a Training Directors' Conference at nearby St. Simons Island, Georgia. Approximately 35 senior-level training officials from 17 Latin American countries participated. The focus of the conference was the delivery of law enforcement training and education in support of counter terrorism efforts in Latin America, and it was hailed by conferees as a great success.

During fiscal year 1996 the Center trained 583 foreign students, representing 1,455 student-weeks of training. Although the majority of the foreign training is done at the request and under the sponsorship of the U. S. State Department, the Center stands ready and has the capability to assist other agencies in meeting critical foreign training needs, particularly for the new governments in the former East block countries.

FINANCIAL FRAUD INSTITUTE

Mr. Chairman, if I may, I would now like to spend a few minutes discussing the Center's Financial Fraud Institute.

The Financial Fraud Institute (FFI) was established by the FLETC's Board of Directors in April 1989 to serve as the hub for the Federal Government's efforts in the fight against sophisticated white collar crime. The FFI provides training and/or coordinates training related research and course development, and provides an organized network for sharing training concepts/materials in the white collar crime arena including financial and computer crimes.

Being a proactive organization, the FFI identifies the training methodologies and provides the knowledge and skills criminal investigators need to combat the ever increasing sophistication of financial and computer crime. The FFI is an important element in dealing with this growing crime problem. Programs such as Criminal Investigations in an Automated Environment, White Collar Crime, Advanced Financial Fraud, International Banking and Money Laundering, Computer Evidence Analysis, Telecommunications Fraud, and International Financial Fraud are examples of training that the FFI can provide.

In addition to the information gathering and research conducted by its staff, the FFI relies on feedback and guidance from a Consultant Group and the Federal Computer Investigations Committee to guide and direct its program development efforts. Recognized experts in the field of computer and telecommunications fraud serve on these committees and provide the FFI with advice and insight necessary to stay abreast of changing trends in this type of criminal activity.

The FFI Consultant Group, formed in 1989, acts as the primary steering committee for FFI and ensures the currency of its curriculum. It meets annually, and its membership includes representatives from the Secret Service, Customs Service, Internal Revenue Service, Financial Crimes Enforcement Network, Department of Treasury's Office of Enforcement, President's Council on Integrity and Efficiency, American Bankers' Association, Department of Justice, Federal Reserve Bank Board, Digital Equipment Corporation, American Institute of Certified Public Accountants, Stanford Research Institute, American Society of Industrial Security, American Bar Association, and the Communications Fraud Control Association.

The Federal Computer Investigations Committee (FCIC), formed around the same time as the FFI Consultant Group, is an independent association of investigators, attorneys, and other professionals involved in the prevention, detection, investigation, and prosecution of all types of computer crime. Representatives from more than 30 Federal, state, county, and municipal organizations regularly participate on this committee. It was born as a result of networking among the graduates of the FFI's programs. Its mission is to develop methods, standards, and techniques for the successful identification, investigation, and prosecution of complex computer and computer-supported crime.

To complement its curriculum offerings, the FFI has also organized and sponsored several brainstorming sessions or colloquies where experts in the field make formal presentations and discuss the latest advancements in hardware, software, and investigative techniques to detect and/or prevent high-tech crime like telecommunications fraud. For example, in February 1996 the FFI hosted a colloquy on "Electronic Sources of Information." More than 90 investigators and prosecutors from both the state and Federal sectors attended, representing organizations such as: the Financial Crimes Enforcement Network, National Security Agency, Central Intelligence Agency, Department of Justice, and the National White Collar Crime Center. Examples of topics covered in the colloquy were: "Law Enforcement in a Digital World," "Legal and Social Issues for Law Enforcement Investigations on the NET," and "Threats to Networks: Challenges for Law Enforcement and Investigations."

Before closing Mr. Chairman, I would like to briefly discuss the FLETC's efforts in measuring the quality of its training programs and meeting the needs of its customers. I would also like to briefly touch on our application of computer based training at the FLETC.

STUDENT FEEDBACK SYSTEM AND CUSTOMER SATISFACTION SURVEY

The Student Feedback System (SFS) is a major element of the overall, on-going quality assurance program at the FLETC. It was implemented at the Center in May of 1990 and is one of the tools the FLETC uses to evaluate the quality of the Center's basic training programs. Data is collected and analyzed on the Criminal Investigator Training, Land Management, and Mixed Basic Police training programs. Four forms are used to collect the data, a Course/Instructor evaluation form, a Program evaluation form, and two Administrative Services evaluation forms. We are in the process of expanding the SFS to include Center Advanced programs.

Under the SFS, students are asked to evaluate every aspect of their training experience while at the FLETC. For example, they are asked whether practical exercises were realistic, whether examination question were clear and understandable, whether handout materials were helpful, or whether student conduct in the classroom interfered with learning. In the administrative support services area they are asked to rate housing, housekeeping, messenger service, recreational activities, dining hall, bus service and so on. Finally, students are asked to rate the overall quality of the program, instructors and administrative support services at the FLETC.

The SFS provides immediate feedback that can be used to improve programs and has proven to be an important tool for maintaining the quality of FLETC training programs. I am pleased to note that in the latest SFS cumulative report covering fiscal year 1996, student perception of the overall quality of our programs and services exceeded our established standards.

In addition to the SFS, the Center conducts customer satisfaction surveys to ensure that the FLETC is meeting the needs of its participating agencies. The latest survey, for which complete data is available, was done during fiscal year 1994. The survey measured customer satisfaction in three general areas: Training Systems, Services, and Support Systems. In training systems and service categories, FLETC ranked very high. The overall average for the areas evaluated under these two categories was 93 and 90 percent respectively. This indicates that over 90 percent of FLETC customers feel the Center is meeting or exceeding their requirements in these areas.

Under training systems the agencies were asked to evaluate five areas: instructional facilities and resources, classroom scheduling, curriculum content, instructors and overall quality of the training. Individual ratings in the three most critical areas—curriculum content, instructors and quality of training—were 94, 96, and 94 percent respectively. These ratings reflect that our customers feel the quality and cost effectiveness of training provided by FLETC is high and that the Center is meeting or exceeding their requirements.

In the service category, our customers were asked to evaluate the quality of services provided by the FLETC in 45 different areas. Examples of the areas our customers were asked to evaluate include: student registration, fire prevention, emergency medical services, recreational services, uniform issues, post office service, moving service, telephone service, printing support, and safety and security service, etc. Again, I am pleased to report that 90 percent of our customers felt the quality of services provided by the FLETC met or exceeded their requirements.

Customers were also asked to evaluate the FLETC's support systems in 9 areas. Examples are: student housing, maintenance, communication and interaction, FLETC's policies, organizational structure, quality of FLETC management, and agency participation in decision making. In this category, 76 percent of FLETC's customers felt that the support systems of the FLETC met or exceeded their requirements.

Following the survey, FLETC began working with its customers to improve its performance in all areas, especially in those areas where customer expectations were not being met. FLETC and agency personnel formed work groups to correct identified weaknesses and changes were made to strengthen FLETC's performance in communication, procurement, agency participation in decision making, and housing to name a few.

The Center recently conducted another customer satisfaction survey. Results of that survey are currently being compiled and analyzed. Although the Center received very high marks in customer satisfaction in 1994, we are even more pleased with preliminary trends in the current survey data from our on-site participating agencies. It shows an across-the-board improvement in almost all areas and indicates the actions taken to correct weakness identified in the 1994 survey are having the desired effect.

The Student Feedback System and customer satisfaction surveys ensure that FLETC focuses on continuous improvement in meeting the needs of our students and participating agencies. They are two important tools in the Center's performance monitoring system.

COMPUTER BASED TRAINING

For the past several years, the Center has been expanding the use of computer based training (CBT) in its training programs as a means of improving quality and/or controlling program costs. We are now using five CBT training courses in the Basic Criminal Investigator Training Program and are also using computer based interactive video training simulation to train in deadly force decision-making and radio communications. Additionally, our Driver and Marine Division is in the final stages of developing a computer based interactive video that will focus on defensive and high speed pursuit driver decision making skills.

Much of the instruction provided using CBT is after hours and/or off duty training that the student does on his own. This allows additional material to be covered in a program to meet training requirements without increasing the length of the program. It also allows students to review and practice skills that they are taught in the classroom, reducing the need for remedial training.

CBT is a good long-run cost avoidance/savings and quality improvement tool. However, the initial investment can be quite high in some instances, and that is affecting the rate at which we are able to expand our use of CBT. The Center has only scratched the surface in the use of CBT and its long term impact on the training we provide will be tremendous.

The FLETC's Firearms and Media Support Division staffs just recently completed another computer based training module, the Situational Awareness and Response Training CBT. The module combines CBT and interactive video technology using a scripted scenario that primarily incorporates the Federal Law Enforcement Training Center's (FLETC) Use of Force Model and the Justice/Treasury Use of Force Policy. The video scenario is displayed on a computer screen and students are required to select the best option from a button bar at one of several decision points in the scenario. If the correct option is selected, the video continues uninterrupted. If an incorrect option is selected, a narrator appears explaining the reason the option was incorrect. This allows students to practice decision-making skills in a controlled

training environment. It can be used in conjunction with or prior to other scheduled training, and at the conclusion of training it can be used as an evaluation tool. The training module's file server can collect and compile comprehensive reports of student performance to include class and individual performance analysis.

Although this training module is currently limited to firearms applications related to the use of force, other divisions and agencies can easily build upon the basic scenarios. The development of the multi-media training module has generated interest from other federal agencies and Department of Defense.

CLOSING

Mr. Chairman, I am committed to the mission of the Center to provide high quality training at the lowest possible cost. Substantial savings are being realized through the operation of the Center as a consolidated training facility. I look forward to your continued support as the FLETC strives to remain a partnership committed to excellence.

I am available to answer any questions you may have concerning this appropriation request.

FINANCIAL CRIMES ENFORCEMENT NETWORK

STATEMENT OF STANLEY E. MORRIS, DIRECTOR

Senator CAMPBELL. Mr. Morris.

Mr. MORRIS. Thank you, Mr. Chairman, Senator Kohl, for this opportunity to join with my colleagues to discuss the mission of the 1998 appropriation requests of the Financial Crimes Enforcement Network [FinCEN].

MONEY LAUNDERING

FinCEN is a small and unique agency with an incredible breadth of responsibility. It has thousands of law enforcement customers, regulates hundreds of thousands of financial institutions, and provides global leadership in the fight against money laundering. FinCEN operates in diverse forums, addressing extremely complex issues. It carries out its work with carefully tailored skills and resources enabling it to serve the broadest needs of its customers and the American people.

To fully appreciate FinCEN's approach to combating money laundering, it is important to understand the complexity of the problem. Money laundering is the fuel for drug dealers, terrorists, arms dealers, and other criminals to operate and expand their enterprises. Indeed, organized crime cannot exist, much less flourish, unless it can move its profits into legitimate financial institutions.

If unchecked, money laundering has the ability to destabilize democratic systems and undermine economic and financial markets around the world. As commerce is globalized, so is crime. It is crucial that in a global economy a comprehensive international effort be waged to combat this threat.

As Secretary Rubin has said and I quote:

> In a global economy the comprehensive, international effort is required to choke off the threat imposed by money laundering. Also, the diffusion of responsibilities throughout government requires a coordinated and cooperative response within each government. In the United States we have brought together elements of our Treasury, State, and Justice Departments, and other agencies to deal with the issue. Globally, other nations will similarly need to coordinate expertise from across a range of ministries.

The coordinated and cooperative response described by Secretary Rubin is at the heart of FinCEN's mission. It serves as a network bringing together diverse groups with specialized expertise. It helps coordinate the antimoney laundering efforts of Federal, State, local, and foreign law enforcement and our regulatory agencies. All of this is accomplished with 179 people—a small but very effective team.

FISCAL YEAR 1998 BUDGET REQUEST

FinCEN's fiscal year 1998 budget request of 181 FTE's and $23,006,000 will enable us to continue our support to law enforce-

ment investigations, regulatory efforts, and international coordination. In addition, under FinCEN's appropriation, we are proposing that two one-time initiatives be funded from the violent crime reduction trust fund, $1 million for a Secure Communications Outreach Program which would be designed to improve secure communications among all the Treasury's law enforcement bureaus; and $2 million in support of the President's efforts to encourage money-laundering countries to institute internationally accepted antimoney laundering standards through training and technological assistance programs.

Thank you again for the opportunity to share our efforts with the Committee. Please be assured that FinCEN will continue to use its funds wisely and look for new and innovative ways to lead in our fight against money laundering.

Thank you.

PREPARED STATEMENT

Senator CAMPBELL. Thank you, Mr. Morris. We have your complete statement and it will be made part of the record.

[The statement follows:]

PREPARED STATEMENT OF STANLEY E. MORRIS

Mr. Chairman and members of the Subcommittee, thank you for this opportunity to discuss the mission and the fiscal year 1998 appropriations request of the Financial Crimes Enforcement Network (FinCEN).

FinCEN is a unique agency with an incredible breadth of responsibility, particularly considering its size. It has thousands of law enforcement customers, regulates hundreds of thousands of financial institutions, and provides global leadership on the problem of money laundering. Much is expected of it—and much is delivered. FinCEN operates in diverse forums, addressing extremely complex issues. It carries out its work with carefully tailored skills and resources enabling it to serve the broadest needs of its customers and the American people.

This agency was first created seven years ago as a central source for financial analysis and intelligence retrieval to assist in the investigation of money laundering and other financial crimes. Then, two and a half years ago, its mission broadened to include regulatory responsibilities. And now with its burgeoning international programs, it serves as one of the key components of Treasury's anti-money laundering efforts.

FinCEN's fiscal year 1998 budget request of 181 FTE's and $23,006,000 continues its support to law enforcement investigations, regulatory efforts, and international coordination. In addition, under FinCEN's appropriation, we are proposing that two one-time initiatives be funded from the Violent Crime Reduction Trust Fund: $1 million for a Secure Communications Outreach Program which would be designed to improve secure communications among Treasury's law enforcement bureaus; and $2 million in support of the President's efforts to encourage money laundering countries to institute internationally accepted anti-money laundering standards through training and technical assistance programs.

THE MAGNITUDE OF MONEY LAUNDERING

In order to appreciate FinCEN's approach to combating money laundering, it's important to understand the complexity of the problem. Today, I will discuss that complexity and then FinCEN's methods for helping to address the problem.

Money laundering is the fuel for drug dealers, terrorists, arms dealers, and other criminals to operate and expand their enterprises. Indeed, organized crime can not exist much less flourish unless it can move its profits into legitimate financial institutions. If unchecked, money laundering has the ability to destabilize democratic systems and undermine economic and financial markets around the world. As commerce is globalized, so is crime. It is crucial that in a global economy, a comprehensive, international effort be waged to combat this threat.

As Secretary Rubin has said in the past: "In a global economy, a comprehensive, international effort is required to choke off the threat posed by money laundering.

Also, the diffusion of responsibilities throughout government requires a coordinated and cooperative response within each government. In the United States, we have brought together elements of our Treasury, State and Justice Departments, and other agencies, to deal with the issue. Globally, other nations will similarly need to coordinate expertise from across a range of ministries."

The coordinated and cooperative response described by Secretary Rubin is at the heart of FinCEN's mission. It serves as a network, bringing together diverse groups with specialized expertise. It helps coordinate the anti-money laundering efforts of federal, state, local, and foreign law enforcement and regulatory agencies. All this is accomplished with 179 people—a small but very effective team.

FinCEN accomplishes its missions in the following ways:

—First, supporting law enforcement investigations at the federal, state, and local level by providing intelligence and analysis;

—Second, regulating financial institutions under the Bank Secrecy Act—the BSA—(the nation's primary counter money laundering law);

—Third, helping to influence and guide the international fight against money laundering through both bilateral and multilateral initiatives; and

—Fourth, playing a leadership role in creating unique approaches to dealing with and beating sophisticated financial criminals at their game.

We do not accomplish these enormous tasks alone. FinCEN relies on its partners in law enforcement—at the federal, state, and local levels, the regulatory community, the financial sector, and numerous organizations around the world. The work is too complex and far-reaching to do without the support and expertise of all the players.

I. LAW ENFORCEMENT SUPPORT

The original mission of FinCEN centered on law enforcement case support. This is still our primary mission, but we have expanded it to include specially tailored forms of assistance. Let me describe the five categories of support.

Direct Case Support.—Since its creation in 1990, FinCEN has provided almost 38,000 analytical case reports involving over 100,000 subjects to federal, state, and local law enforcement agencies. Last year alone, FinCEN worked with more than 150 different agencies, answering more than 7,600 requests for investigative information. Using advanced technology and countless data sources, FinCEN links together various aspects of a case, finding the missing pieces to the criminal puzzle.

Our compilation of databases provides one of the largest repositories of information available to law enforcement in the country. FinCEN's technology and expertise draws representatives from 17 agencies—the major federal investigative agencies—in order to have direct access to our information. These are analysts and agents who serve long-term details at FinCEN. These individuals are critical in the case development process and act as a point of contact on essential law enforcement dissemination issues.

Platform Access.—FinCEN support is also provided to law enforcement agencies through a "Platform" which is a way to permit others to use FinCEN's resources directly to carry out their work. FinCEN pioneered the Platform in 1994, offering training, office space and database access to employees of other federal agencies who needed to conduct research on cases under investigation by those agencies. Platform personnel are on the payroll of other federal agencies and come to FinCEN on a part-time basis to work only on cases being conducted by their own offices or agencies. These individuals know the needs of their organization and can support that need directly through database access. FinCEN is currently assisting 43 Platform participants from 21 agencies. About 10 percent of FinCEN's case work last year and 20 percent so far this year was carried out through these Platforms.

Artificial Intelligence Targeting System.—FinCEN's Artificial Intelligence (AI) system is yet another avenue available to law enforcement in the fight against money laundering. Through the employment of advanced AI technology, the system provides a cost effective and efficient way to locate suspicious activity in the tens of millions of currency transaction reports required by the Bank Secrecy Act.

For the first time in the 25 year history of the act, every reported financial transaction can be reviewed and evaluated. This unique blend of state of the art technology within a user friendly environment provides intelligence analysts and federal investigators with the ability to link ostensibly disparate banking transactions, producing hundreds of leads for new investigations.

FinCEN's innovative system finds potential suspects during the AI analysis who might have otherwise gone undetected. This technology and the expertise of FinCEN's analysts essentially find the needles in the haystack. Since the creation

of the system in 1993, it has matched more than 39 million BSA reports against the algorithms of the system, revealing over 3,500 subjects.

Support to ICG.—FinCEN also is supporting the Interagency Coordination Group (ICG) whose purpose is to share money laundering intelligence in order to promote multi-agency money laundering investigations. The group includes the Internal Revenue Service, the U.S. Customs Service, the Drug Enforcement Administration, the Federal Bureau of Investigation, and the United States Postal Service. FinCEN and the Department of Justice's Criminal Division, serve as advisors to the group. FinCEN provides a central site for the group's operations and the support of four personnel who provide research and analysis of the intelligence information generated by the group. This intelligence, coordinated in FinCEN's case lab, is then disseminated to case agents currently working major money laundering investigations in the field.

Through analyzing information provided by the ICG, FinCEN's case lab has identified more than 5,000 bank accounts opened in the United States by Colombian/Mexican money launderers. By tailoring one of FinCEN's computer applications, these accounts have been linked to other accounts, providing additional intelligence.

Several weeks ago, FinCEN hosted a meeting of more than 100 investigators, analysts, and prosecutors to develop a strategy for leveraging the intelligence gained from this process. This law enforcement group is considering both domestic and international operations to cripple the major money laundering systems.

Gateway.—FinCEN's network extends to state and local governments in order to ensure the widest possible anti-money laundering effort. Through a system called Gateway, state and local law enforcement agencies have direct, on-line access to records filed under the Bank Secrecy Act, the largest currency transaction reporting system in the world. BSA records contain information such as large currency transactions, casino transactions, international movements of currency, and foreign bank accounts. This information often provides invaluable assistance for investigators because it is not readily available from any other source.

Using FinCEN-designed software, the Gateway system saves investigative time and money because subscribing agencies can conduct their own research and not rely on the resources of an intermediary agency to obtain BSA records. All states and the District of Columbia are now on-line with the system. In fiscal year 1996, Gateway processed 49,466 queries from 45 states. Through February of this year, FinCEN has received 21,843 Gateway queries from 48 states.

During the research and analysis process, Gateway electronically captures the information gathered on incoming inquiries and automatically compares this information to subsequent and prior queries from Gateway customers. About 17,000 subjects have been identified through Gateway. In addition, Gateway users ask FinCEN to match about 600 new subjects each month against its other databases to identify potential parallel investigations. This technique enables FinCEN to assist state and local agencies in coordinating their investigations among themselves, and with federal agencies, through the sharing and exchanging of case data. (In other words, FinCEN has the ability to "alert" one agency that another has an interest in their subject.) In 1996, 356 "alerts" were given to agencies who had an interest in the same investigative subject. From October 1996 through February 1997, 186 "alerts" were issued.

Since the inception of Gateway in 1994, 463 representatives of state and local law enforcement (to include state attorney general offices) have been trained on Gateway. As of March 1, 1997, there were 354 active users of the system.

In all the programs I just described, our goal is to give our customers access to as many tools as possible to build their investigations and to share our expertise in as many ways as possible. With the volume and complexity of the work, it is impossible to always do their analysis and intelligence gathering for them. Nor should we try. Agencies know best what they need for their case work. FinCEN strives to find all the avenues—whether it be traditional data analysis, detailee support, Platform, Artificial Intelligence System, the ICG or Gateway—to leverage our resources to efficiently and effectively serve the greatest number of customers. I believe that if we did nothing more than this law enforcement investigative support, FinCEN would justify its resources, but we do much more.

II. ANTI-MONEY LAUNDERING REGULATORY PROGRAM

The link between FinCEN's law enforcement mission and its regulatory mission is vital. The first mission finds ways to create and manage information needed by front-line investigators and prosecutors, and by policy makers. On the regulatory side, the Bank Secrecy Act is used to require the preservation at financial institutions and, where appropriate, the reporting, of that information to law enforcement.

It makes no sense to require information—and impose burdens on banks and others—if the information isn't essential to our anti-money laundering strategy. And, it makes no sense to have potentially useful information that you can't get to an investigator in time for successful case development.

That's where the BSA and FinCEN's database management and exploitation programs come together. The BSA increasingly supplies the input, and FinCEN's law enforcement support supplies the output. We endeavor only to require information of a type and in a form we can really put to use, and to use the BSA to get that information in a way that our database systems and intelligence programs are prepared to handle.

Our regulatory program reflects two principles. First, effective anti-money laundering programs must address the needs of law enforcement without creating unnecessary burdens on the financial community. FinCEN works in partnership with banks and others to establish these policies and regulations to prevent and detect money laundering. Second, the Bank Secrecy Act rules must be of use to, and capable of audit and enforcement, by other agencies—the five federal financial supervisory agencies (as well as in some cases state banking officials), the Securities and Exchange Commission, the Examination Division of the Internal Revenue Service, and federal and state law enforcement agents and prosecutors. I think you can see how complex the issue is—just in the number of organizations involved in the process, much less the complexity of the regulations themselves.

None of this is easy for a small agency (or for that matter a big agency). There are more than 200,000 financial services providers—from the largest money center banks to the scattered currency exchange businesses along the Southwest border, with hundreds of variations in between—that are subject to the BSA rules. Enforcement authorities around the nation—and, importantly, the Congress—look to us to use the BSA, as intended, to come up with appropriate civil strategies to prevent, detect, and enforce the laws against money laundering. At the same time, these financial institutions (from big to small) look to us for rules that make sense, don't impose unnecessary or arbitrary costs, and fit their own sense of what it takes to fight financial crime effectively.

So there is no place for quick, "off the rack" solutions. There's no cookbook listing the recipes, let alone describing how to get the wide variety of regulators, agencies, and financial institutions involved to understand and to use the rules effectively.

The financial industry is a crucial part of this picture. As we've often said, we cannot succeed in fighting money laundering in a professional world that separates enforcement and regulation, or the public and private sectors. We must break down narrow and parochial thinking. We need to be more flexible and creative than criminal organizations. Thus, our strategies for prevention emphasize working with the legitimate businesses that see potential money launderers first, up close—that is, banks and other financial institutions.

FinCEN's regulatory program is developed in close consultation with the public and private officials represented on the Bank Secrecy Act Advisory Group (BSAAG), which has proved extremely effective as a forum for a frank exchange of views and fostering of increased cooperation and understanding between law enforcement and the financial community. Since its creation in 1994, the BSA Advisory Group has been hailed by the Treasury, Advisory Group members, the public and the G–7 Financial Action Task Force as an innovative way for government and industry to work together in a partnership to fight financial crime while reducing industry's regulatory burden.

The group's members represent the financial services industry, from big banks to small ones, as well as the securities and casino industries and the nonbank sector, such as check cashers, money transmitters and traveler's check issuers. In addition, there is representation from state and federal law enforcement and regulatory authorities. The group discusses the problems of domestic and international money laundering and the programs created to fight financial crimes.

Both in the design and formulation of the details of regulatory proposals, FinCEN consults on a regular basis with officials in other federal enforcement and regulatory agencies, both within the Treasury and Department of Justice, and, as we said, with financial industry officials. State officials are also consulted where states have significant experience and primary regulatory responsibility.

Let me describe some examples of how FinCEN's regulatory strategy focuses on increasing the quality of the information and preventing our financial institutions from being used for money laundering:

Exemptions.—Currency Transaction Reports—CTR's—(reports which are filed by banks on cash transactions over $10,000) and other key BSA reports still provide the basic raw material for FinCEN analyses—in individual cases and for broader analyses of patterns of illegal money movement. But the meaningful CTR data is

often obscured by a large volume of information that is not necessary or relevant—and that clogs the system. In fact, the BSA database is made up of more than 100 million reports filed by financial institutions.

Last year more than 12 million CTR's were filed, the significant majority of which involved legitimate commercial transactions. While banks are permitted to "exempt" certain transactions from CTR filings, the existing process is too complicated, requires constant monitoring and creates significant liability for penalties for mistakes. With these risks and advances in technology, many banks have decided to file CTR's rather than exempt.

So we're trying to use the Congressional directive in the Money Laundering Suppression Act to unclog the system. FinCEN has issued an interim rule (soon to be a final rule) which creates "bright line tests" by which banks may exempt most publicly traded companies and their subsidiaries as well as transactions with domestic banks and government agencies realizing that these CTR's are "of little or no value for law enforcement purposes."

Also, we hope very soon to issue a notice of proposed rulemaking totally eliminating the present—complex, costly and much criticized—exemption system by expanding the types of businesses eligible for exemption beyond the entities listed above to also provide simplified procedures to exempt retail, wholesale and service businesses as well. The purpose of these proposed rules is to cut the number of filings by at least half and release the banks from burdensome processes so that they can focus on information important to investigators such as the reporting of suspicious activity.

It's important to note that when the substance of our proposals was first announced by FinCEN, the American Bankers Association issued a news release applauding the effort, stating in part, "FinCEN's new currency transaction reporting exemption regulation is a victory of reason over process...(these changes) will cut down on paperwork, save the banking industry millions of dollars and allow law enforcement to focus on truly suspicious activity."

SARS.—Working closely with the Federal Reserve Board and the other regulatory agencies, the new Suspicious Activity Reporting System (SARS) focuses on information government does require—information about transactions that appears to represent attempts to launder funds or violate the banking laws. The SAR system allows banks to report suspected criminal activity such as bank fraud, misdeeds by bank officials, tax fraud, check kiting, credit card fraud, embezzlement or money laundering, to one collection point.

The new system, which went into effect in April 1996, merged and revolutionized two older reporting systems that had been in place for over a decade. Under the old system, banks filed more than two million pieces of paper, usually through the mail, in order to report suspicious activity occurring at or through banks; separate filings were made with numerous law enforcement and regulatory agencies, and no uniform mechanism for tracking the referrals (or even knowing that they had been made at each agency) existed.

This single centralized system allows more than a dozen federal law enforcement and regulatory agencies to use the information in these reports simultaneously. The single filing point for banks permits the rapid dissemination of reports to appropriate law enforcement agencies, provides for more comprehensive analyses of these reports, and results in better information about trends and patterns which is vital to Treasury enforcement in our efforts to address money laundering. As of this month, financial institutions have filed almost 65,000 SARS. And about 40 percent of SARS filings reported suspected money laundering activity.

The system is administered by FinCEN in a unique partnership with the IRS Detroit Computing Center, federal law enforcement and the five bank regulatory agencies. In the context of technology and keeping one step ahead of criminals, the SARS will significantly improve law enforcement's ability to detect, analyze and understand criminal financial activity. The users of the information—the IRS/CID, U.S. Customs, U.S. Secret Service, the FBI, the U.S. Attorneys, the federal bank regulators, and state law enforcement agencies and banking supervisors now have equal access to the data as soon as its processed.

Wire Transfer Rules.—The world's intricate wires transfer systems move over $2 trillion a day, involving over 500,000 transactions. In the past, wire transfers offered criminal organizations an easy, efficient and secure method of transferring huge sums of money over a very short period of time. However, two funds transmittal (wire transfer) rules issued jointly by FinCEN and the Federal Reserve became effective on May 28, 1996. Requiring years to design, these wire transfer rules preserve an information trail about persons sending and receiving funds through wire transfer systems, helping law enforcement agencies trace criminal proceeds.

Casinos.—Since 1985, when state-licensed casinos were first subjected to the safeguards and controls of the BSA, the size and availability of casino gaming in the U.S. has increased dramatically. At that time, the new rules applied only to casinos in Puerto Rico and Atlantic City, New Jersey. Under an agreement between the state of Nevada and Treasury, that state's casinos were subject to a separate regulatory regime. Today commercial casino gaming is authorized in fifteen states and accounts for nearly half a trillion dollars in wagered funds.

Concurrently, there has been a significant expansion in the availability of bank-like financial services provided to casino patrons, including the establishment of deposit and credit accounts, and money transfer, currency exchange and check cashing services. Given the large volume of activity occurring at casinos, and the cash-intensive nature of transactions, this industry is vulnerable to abuse by customers intent upon committing money laundering, tax evasion and other financial crimes.

FinCEN has worked closely with the industry to ensure that effective anti-money laundering programs exist, including working with the new American Gaming Association and state casino associations and regulators from Nevada, New Jersey, Puerto Rico, Mississippi and other jurisdictions.

Tribal Casinos.—In addition to the growth in state-licensed gaming, in the six years since Indian tribal casinos were first established in the U.S., this segment of the industry has spread to nearly half of the states and accounted for over $50 billion in funds. In order to meet Congress' direction in the Money Laundering Suppression Act to end the disparate regulatory treatment of tribal casinos, and in recognition of the unanticipated growth of this industry, FinCEN began the extensive process of meeting with representatives of tribal governments, casino operators and others associated with this industry. We conferred with The National Indian Gaming Commission, National Congress of American Indians and, most especially, the National Indian Gaming Association.

In April, 1996, FinCEN sponsored a BSA conference designed specifically to address compliance with the new regulations. While tribal representatives often express concern over the potential threat to their tribal sovereignty, FinCEN has been cited favorably for its willingness to work with the tribal community through the regulatory process.

Moreover, our regulations were designed to avoid a contentious issue between tribal and state governments, by applying these regulations uniformly regardless of whether state-tribal compacts were in force. This rule received no critical comments and, on August 1, 1996, it went into effect largely as proposed.

Our experience in dealing with casinos has taught us that non-traditional financial services providers require special attention, and also a creative, and sometimes flexible, regulatory approach. That experience should serve us well as we deal with the challenge of upgrading BSA compliance and anti-money laundering controls in what we've come to call "money services businesses," a subject to which I'd now like to turn.

Money Services Businesses.—As you may know, hearings were recently held by the House Banking Committee which focused on a geographic targeting order, or "GTO." The U.S. Customs Service, IRS, New York City Police, FinCEN, and others supported an anti-money laundering operation which caused a dramatic reduction in the amount of illicit funds moving through New York money transmitters. The GTO required 22 licensed transmitters of funds to report information about the senders and recipients of all cash purchased transmissions to Colombia of $750 or more.

As a result of the GTO, the targeted money transmitters' overall business volume to Colombia dropped by approximately 30 percent. With this mode of moving money to Colombia restricted, the criminals had to find other means of moving their money so they turned to bulk smuggling. This method of money movement is vulnerable to law enforcement interception and resulted in a dramatic increase in the amount of currency seized along the East coast—over $50 million while the GTO was in effect. This figure is approximately four times higher than in previous years. The GTO was a great success story for both federal and local law enforcement.

The GTO focused a search-light on a little-understood but very large and important part of the financial sector. This is the class of non-bank businesses that sell money orders and travelers checks, transmit funds, exchange currencies and cash checks. (We think the businesses are better-described by the term "money services businesses" than "non-bank" financial institution, because the latter term also includes broker-dealers, insurance companies, and gaming businesses.) Although the businesses that offer these products are often small, the industry is anything but. It is estimated that $200 billion passes through these businesses each year. As I indicated above, we think that there may be in excess of 200,000 businesses nationwide that offer one or more of these products.

Of course, as in the case of the nation's banks and securities firms, most money service business operators and agents are law-abiding, cooperate with enforcement authorities, and, in truth, are as interested in cost-effective financial law enforcement as we are. But the GTO indicates that we need to pay more attention to updating the way the BSA applies to these businesses, and to equalize the money laundering controls to which various types of financial institutions are subject; this is not just a question of new rules, but rather of extending existing rules to non-bank money service providers.

Three proposed rules to address money services businesses are currently under review. Each of them is better because of our partnerships with industry and law enforcement. The first proposal sets forth a registration scheme that is designed to capture crucial information about money transmitters, check cashers, currency exchangers and issuers, sellers, and redeemers of money orders and traveler's checks, while at the same time not imposing an undue burden on small businesses engaged in providing these services.

The other two proposals would extend the suspicious transaction reporting requirement to certain categories of money services businesses and require special currency transaction reporting and recordkeeping by money transmitters. These proposals are based not only on the general knowledge of the industry that we have gained in connection with the registration proposal, but also on the experience of the New York GTO.

I want to emphasize that the three packages I've described are still in review and are simply notices of proposed rulemaking. We look forward to working with industry groups to refine the proposals to strike the necessary balance between the many competing factors that must be weighed to devise workable rules in this area.

As I think you can see, we've been asked to tackle a wide variety of problems and issues on the regulatory side. There is no set of "instructions for assembly" that comes with these tasks, and few precedents for designing a regulatory system that truly enlists the cooperation of financial businesses in making money laundering harder to carry out and easier to detect. As in the case of our law enforcement support operations, I hope you'll agree that the taxpayers would be getting their money's worth if all of FinCEN's efforts were devoted simply to re-engineering the BSA. Still, we are required to and should do more.

III. INTERNATIONAL INITIATIVES

The "business" of laundering money in the United States is being made more difficult. The consequences of these successes here at home are two-fold. First, criminals are being forced to search for financial systems beyond our borders in which to disguise their illicit proceeds. Secondly, a growing list of countries are recognizing the corrosive dangers that unchecked financial crime poses to the integrity of their economic and political systems. As a result, countries are seeking Treasury's and FinCEN's assistance in establishing effective anti-money laundering programs.

We are meeting the challenges created by a borderless marketplace for money launderers by developing and fostering bilateral and multilateral initiatives aimed at whittling down the number of countries who choose not to play by international standards. FinCEN has helped Treasury provide international leadership in developing and fostering global anti-money laundering strategies, policies, and programs, and reaches out to assist countries in implementing those standards. FinCEN has received worldwide recognition for its capabilities and accomplishments and we are frequently called upon to provide guidance and assistance in multilateral fora, as well as in individual government-to-government exchanges.

Our principal efforts in the international arena include:

Financial Action Task Force (FATF).—In just the past three years, FinCEN has been instrumental in revitalizing the world's premier anti-money laundering organization, the Financial Action Task Force. Created at the G–7 Economic Summit in 1989, the FATF is comprised of 26 countries. It is dedicated to promoting the development of effective anti-money laundering controls and enhanced cooperation in counter-money laundering efforts among its membership and around the globe. FinCEN serves as the lead agency for coordinating the U.S. role within the FATF. It heads up the U.S. delegation which consists of Treasury, State and Justice, and I am one of six members of the FATF Steering Group.

The U.S. held the Presidency of the FATF from July 1995 to July 1996. During the U.S. presidency, FinCEN spearheaded the successful effort to strengthen the Task Force's 40 recommendations, the standards for countries to follow in combating the laundering of criminal proceeds. This was the first update to the recommendations since they were issued in 1990.

FATF also mandates "mutual evaluations"—regular, on-site peer-group examinations of each member nation's progress in implementing anti-money laundering controls. A mutual evaluation of the United States was conducted in December 1996. The positive evaluation that the United States received lends international credibility to U.S. anti-money laundering programs as well as further establishes U.S. leadership in countering money laundering worldwide.

FinCEN has given new focus to FATF's Annual Typologies Exercise, this year persuading FATF to issue a public version of its report. The annual typologies meeting brings together law enforcement representatives from member countries to discuss current money laundering trends and patterns. Disseminating public versions of these reports to financial institutions in the private sector provides them with valuable feedback about the usefulness of compliance programs to law enforcement. This year's report contains an annex which discusses the money laundering implications of emerging payment systems, such as electronic money (e-money) and Internet transactions.

A primary goal of the U.S. has been to expand FATF's anti-money laundering standards to key regions around the world. To this end, it has encouraged the development of sister organizations such as the Caribbean Financial Action Task Force (CFATF) and the Asia/Pacific Group on Money Laundering.

FinCEN played a role in the success of a conference held in October 1996 in South Africa. The conference resulted in 13 countries from the region agreeing to seek the establishment of a Southern and Eastern African Financial Action Task Force. We are especially encouraged by this first but important step towards bringing a key region of the world under the FATF umbrella.

With strong encouragement from the United States, the current President of the FATF has been developing contacts with the Multilateral Development Banks, such as Asian Development Bank and the Inter-American Development Bank.

Financial Intelligence Units and the Egmont.—We are witnessing a new worldwide phenomenon, that is the establishment of financial intelligence units (FIU's) in countries through out the globe. These units serve as the central focal point for countries' anti-money laundering efforts. Just five years ago, there were less than a handful of FIU's in the world. Today, there are at least 29 such units. The momentum for this development came about as a result of several years of an intensive anti-money laundering effort by FinCEN and its counterparts in Europe and Australia.

Under the leadership of FinCEN, a core group of FIU's met for the first time in Brussels in 1995 and created an organization known as the Egmont Group. This group serves as an international network, fostering improved communication and interaction among FIU's in such areas as information sharing and training coordination.

Although differing in size, structure and individual responsibilities, Egmont members share a common purpose—cooperation in the fight against money laundering through information exchange and the sharing of ideas.

The effort to increase communication among FIU's has been furthered by FinCEN's development of a secure web site which will permit members of the Egmont Group to access information on FIU's, money laundering trends, financial analysis tools, and technological developments. We cannot emphasize strongly enough the importance we place on the expansion of financial intelligence units around the world. It is the embodiment of the network concept offering support to law enforcement nationally and internationally.

International Criminal Police Organization (Interpol).—Interpol is an international organization established to facilitate information sharing and coordination among nations in worldwide criminal investigative matters. Treasury's Under Secretary for Enforcement has served on Interpol's Executive Committee. At the 64th session of Interpol's General Assembly held in October 1995, a resolution was unanimously adopted establishing the first major anti-money laundering declaration in the organization's history. Additional progress against money laundering is made through annual financial analysis conferences which FinCEN co-sponsors with Interpol's FOPAC unit. In fact, just yesterday I was in Buenos Aires at the annual FinCEN-FOPAC conference, where more than 20 countries were discussing the ways governments can use suspicious activity reports filed by financial institutions to combat money laundering.

Interpol is also focusing on money laundering controls in the countries of the Former Soviet Union and Eastern European. As these governments struggle to put into place effective regulatory and legal infrastructures, ample opportunities for criminals to launder their money exist. The Secretary General of Interpol called upon FinCEN to lead an examination of the economic environment and factors that

impact money laundering in 15 of 26 of these countries. Since July 1995, 13 of the 15 reports have been drafted under "Project Eastwash."

FinCEN and FOPAC's combined efforts have generated the political will in several of these countries to begin establishing anti-money laundering regimes. For example, the Latvian government used our Eastwash report as the impetus to push forward with efforts to develop new anti-money laundering measures. Through attendance at the annual financial analysis conferences, Slovakia and Czech Republic moved to establish FIU's, and most recently, several Latin American countries (Argentina, Colombia, Uruguay, and Bolivia) used these discussions to initiate similar efforts.

Summit of the Americas (SOA).—In December 1995, Treasury Secretary Rubin chaired a conference in Buenos Aires, Argentina, that was attended by Ministers from 29 of the 34 SOA nations. FinCEN led the year long effort to lay the groundwork for the Buenos Aires Conference by coordinating the development of a Communiqué—a document which commits each of the participating countries to take a series of steps to combat money laundering.

Treasury and FinCEN, along with other agencies, are leading the follow-up efforts to the conference. This includes offering coordinated training and assistance to SOA participating countries. The process is beginning to take effect. At least 25 of the 34 Summit countries have taken positive steps toward implementing the communiqué by passing, amending or drafting legislation, or issuing related regulations.

Money laundering continues to pose a serious threat to the stability of the world's financial institutions. Yet, in the past two years, more than 25 countries with as varied political systems as Bulgaria and New Zealand have passed anti-money laundering laws. About a dozen others such as Russia, Israel, Ukraine, and Mauritius have draft laws or regulations pending.

The role that the United States plays, both by itself and as part of multilateral efforts, is critical in setting effective standards in the fight against money laundering. FinCEN is at the forefront of this world wide movement. We have found that it is important to share our expertise—as well as our mistakes—with our foreign counterparts. FinCEN representatives have visited five continents and more than 50 countries in the past three years urging these countries to take the money laundering threat seriously and adopt effective anti-money laundering measures. We have also acted as host to 313 visitors representing 71 countries since the fall of 1995.

IV. LEADERSHIP

The fourth and final area goes to fundamentally how we get all of this done. As I said earlier, we are indeed, a small agency. I hope that it is also recognized that small does not mean unimportant as evidenced by our critical and in many cases, leading role in the fight against financial crime. Granted, we do not have a sizable work force. Therefore, we cannot possibly do everything ourselves, but it isn't size but rather expertise and the help of others that permits us to accomplish our many missions. In fact, it is our small size that allows us the flexibility to operate as our name suggests, i.e., as a "network."

Candidly, we like being and want to remain relatively small. We do not want to increase our size substantially but rather our effectiveness and ability to influence others. In short, we must rely on our own skills to persuade and lead.

In the era of financial globalization, no single set of skills or tools alone can protect the financial system from abuse. One reason we are able to accomplish so much with so few is the diversity and professional dedication of the men and women of FinCEN. We are former bankers, linguists, law enforcement agents, regulatory officials, academics, lawyers and computer experts. This is why we are able to lead and think outside of the status quo. And, I would like to mention a few areas to illustrate what I mean.

Technology.—In the area of technology, we really are pioneers. FinCEN uses state of the art technology to not only strengthen its own capabilities, but also to improve the means by which we provide investigative support and analysis to law enforcement.

In addition to having what has been called one of the best and most informative government Web Pages on the Internet by Federal Computer Week magazine, we have developed a sophisticated Intranet network of databases to link financial, law enforcement and commercial information to provide cost-effective and efficient measures ("one stop shopping") for federal, state and local law enforcement officials to prevent and detect financial crime. FinCEN provides this information/access for no charge, but it is true that there is no such thing as a free lunch. What we gain is additional information on investigations to assist future investigations; this allows

us to link ongoing investigations together to avoid duplication, and assemble masses of data to identify strategic trends. In this regard, our Gateway system won an award in 1995 from Government Executive magazine for identifying creative ways to enlist the support of other entities.

FinCEN's Artificial Intelligence (AI) system is another example of how FinCEN has used technology to improve the quality of information. And, as I described earlier, the SAR system has integrated technology and pooled the information, expertise and resources of several different regulatory agencies to develop a system that was better and more efficient for the government as well as the industry.

Partnership.—Five years ago, the BSA concentrated on the reporting of currency being deposited into banks. Today, money laundering methods, as well as the financial service sector, has changed dramatically. Our success at deterring and identifying large currency deposits has forced criminals to use alternative more sophisticated methods to gain access to the financial systems. As a result, we have had to employ more sophisticated counter measures. Now financial services are provided by hundreds of thousands of entities ranging from traditional depository institutions to broker dealers, state and Indian casinos, check cashers, currency exchangers, issuers and sellers of money order and travelers checks as well as money transmitters. Needless to say the government's resources dedicated to this fight have not and could not possibly increase at the same rate. Therefore, we have had to do more with what we have. We have done this by developing partnerships with the affected industries who share our mission as well as with other nations.

Money laundering is a global problem and cannot be handled on a national basis. Treasury and FinCEN have led the world in promoting effective international anti-money laundering measures. As you have heard, we use the creation of regional organizations to ensure a level playing field and provide support and expertise to international organizations like FATF, CFATF, Organization of American States, the Summit of the Americas and emerging areas such as Africa and Asia.

We have also begun to build new relationships with the nearly 30 Financial Intelligence Units (FIU's) throughout the world. Toward that end, FinCEN has again used technology as an important tool. FinCEN, as the U.S. representative to this group, is coordinating the development of an International Secure Web System to provide a centralized information exchange service. Improved interaction and communication among the membership will serve a broad range of common goals in the area of information sharing and training and technical assistance.

Leadership through inclusion is working at home on the domestic front. As you have heard, our Advisory Group is a sounding board and "reality check." The members are truly the best and brightest of the industry and do not work for the Treasury, but thankfully work with us to provide insight and recommendations for improvement. We have also used outside assistance in our study of the NBFI industry, not only by working with members of the industry, but also by commissioning studies to assist us in understanding the nature and importance of this industry. Therefore, the outreach beyond government is allowing us to develop effective and commercially feasible anti-money laundering measures.

Another area of which I am very proud is FinCEN's study of emerging new payment technologies often referred to as E-Money. FinCEN was one of the first government agencies to begin studying this issue over 2½ years ago. Our interest and ability to grasp and lead on this issue reflects our various responsibilities. As a regulator, we administer and maintain the largest currency reporting system in the world and our computer expertise and experience in attempting to curtail laundering of currency makes us particularly sensitive to crimes that could be facilitated by cutting-edge information technology. However, our most crucial role is that of being a network. E-Money, as expected, has raised many issues that go beyond FinCEN's or any other single agency's jurisdiction or mission. Our approach was to raise awareness of the issues and bring together and support government agencies and the private sector to work in cooperation to discuss the implication of these systems as they are being developed.

Our efforts began with a September 1995 Colloquium in New York City. We chaired the FATF study of this topic and are supporting the work of the G–10 Working Party on Electronic Money. And again, we have employed technology. We have conducted computer-based E-Money war games and have sought out experts to support and validate our efforts to understand the industry. We are also developing money laundering simulation exercises with Rand Corporation which is an expert in simulations.

CONCLUSION

FinCEN's fiscal year 1998 budget continues the programs outlined above. I hope I have also been able to show the importance of a secure communications network among the law enforcement agencies and bringing nations into conformance with anti-money laundering standards—the purpose of our initiatives under the Violent Crime Reduction Trust Fund.

Thank you again for the opportunity to share our efforts with the Committee. Please be assured that FinCEN will continue to use its funds wisely and look for new and innovative ways to lead in the fight against money laundering.

STATEMENT OF ELJAY B. BOWRON, DIRECTOR

Senator CAMPBELL. Director Bowron.

Mr. BOWRON. Mr. Chairman, I, too, would like to thank you and Senator Kohl for the opportunity to appear here today and discuss Treasury law enforcement, and specifically the Secret Service. I want to let you know that the entire executive staff of the Secret Service is here today and we want to pledge our commitment to continue a forthright and effective working relationship with the committee, and to thank the committee for all the support that it has given to the Secret Service.

I have submitted a complete statement for the record detailing our budget request; and with the funding, the Secret Service will advance the attainment of its general strategic goals, which are: First, to maintain the highest level of physical protection possible through the effective use of human resources, protective intelligence, risk assessment, and technology. Second, to protect the integrity of the Nation's financial payment systems through criminal investigations, and the assessment of trends and patterns to identify preventive measures to counter systemic weaknesses. Third, to foster partnerships with both State, local, and other Federal law enforcement, as well as private industry and the affected industries specifically.

I really think that is sufficient for my abbreviated statement, and I am prepared to answer your questions.

Thank you.

PREPARED STATEMENT

Senator CAMPBELL. Thank you, Mr. Bowron. Your complete statement will be made part of the record.

[The statement follows:]

PREPARED STATEMENT OF ELJAY B. BOWRON

Mr. Chairman and members of the subcommittee, I am pleased to be here today.

Before I introduce my associates who are with me today, I would first like to extend my congratulations to you Senator Campbell for assuming the Chairmanship of this subcommittee. In addition, I would like to extend my best wishes, and those of the men and women of the Secret Service, to all of the new members of this subcommittee. Further, I want to let you know that my colleagues and I pledge to continue a forthright, effective, and cooperative working relationship with the subcommittee.

With me today, Mr. Chairman, are Richard J. Griffin, Deputy Director; W. Ralph Basham, Assistant Director for Administration; Richard S. Miller, Assistant Director for Protective Operations; Stephen M. Sergek, Assistant Director for Protective Research; Bruce J. Bowen, Assistant Director for Investigations; K. David Holmes, Assistant Director for Inspection; Lewis C. Merletti, Assistant Director for Training; Terrence Samway, Assistant Director for Government Liaison and Public Affairs; and John Kelleher, Chief Legal Counsel.

FISCAL YEAR 1998 APPROPRIATION REQUEST

The Service's fiscal year 1998 funding request totals $605.8 million and 5,027 FTE, and is comprised of three separate appropriations: the Salaries and Expenses account; the Acquisition, Construction, Improvement and Related Expenses account; and the Violent Crime Reduction Trust Fund account. Taken together, the funding requested for these three accounts is $17.1 million, or 2.9 percent, above the level of funding the Service received this fiscal year for these accounts.

With this funding, the Service expects to further advance the attainment of its general strategic goals, which are: to maintain the highest level of physical protection possible through the effective use of human resources, protective intelligence, risk assessment, and technology; to protect the integrity of the nation's financial systems through criminal investigations, and assessing trends and patterns to identify preventative measures to counter systemic weaknesses; and, to foster partnerships with other federal, state and local law enforcement entities.

SALARIES AND EXPENSES (S&E)

The Service's Salaries and Expenses appropriation request for fiscal year 1998 totals $575,971,000 and 5,007 FTE positions. This is an increase of $44,683,000, and 56 FTE over the fiscal year 1997 appropriated level of $531,288,000 and 4,951 FTE. This request includes $32,385,000 and 28 FTE in program increases, $16,803,000 in upward adjustments necessary to maintain current program performance levels, and an increase of $5,000,000 and 28 FTE transferred from the Violent Crime Reduction Trust Fund (VCRTF). These increases are partially offset by $2,634,000 for non-recurring costs, and $6,871,000 in decreased mandatory changes in workload.

S&E PROGRAM CHANGES

The Service is requesting $13,136,000 and 27 FTE to further implement White House Security Review recommendations. A portion of this funding is required to cover a shortfall in funding for additional staffing authorized for fiscal year 1997, and for additional technical and clerical FTE needed to maintain and support White House Security upgrades.

Base incremental increases of $1,623,000 are requested for fixed site security and maintenance, and to cover a shortfall in funding required for the Departmental digital telecommunications system. Current base funding is insufficient for these mandatory requirements.

The Service, as the Department's Executive Agent, is requesting $6,100,000 for the Federal Law Enforcement Wireless Users Group (FLEWUG). This program is jointly managed and funded by the Treasury and Justice Departments, and was established to plan implementation of a Public Safety Wireless Network (PSWN) for federal, state and local government agencies.

Funding of $2,830,000 is being requested for a personal computer replacement program, and a local area network implementation program. With current base funding it would take 18 years to replace the Service's current personal computers, and 32 years to complete local area network implementation in all field offices. The requested funding will enable the Service to establish a five-year replacement cycle for personal computers and a phased six year Service-wide local area network implementation.

The Service is requesting $996,000 and one FTE for its ongoing effort to meet standardized Departmental financial system requirements. This fiscal year 1998 funding will be used for modernizing the Service's information technology environment, for completing an analysis of procurement system requirements, for purchasing the financial management system travel subsystem, and for a portion of the procurement system hardware and software.

Funding of $1,000,000 is requested for year 2000 conversion of the Service's information system applications.

Funding of $5,000,000 is requested to increase base funding for the replacement of vehicles in the Service's investigative sedan fleet. At the beginning of fiscal year 1998, 49 percent of the vehicles in the sedan fleet will have over 60,000 miles on them—the current federal replacement standard. The requested funding will sustain a five-year replacement cycle for the investigative sedan fleet, and essentially meet the GSA mileage standard for replacement.

The Service is also requesting an additional $1,700,000 to sustain an eight-year replacement cycle for its special purpose vehicles. This funding will likewise bring the replacement program for these vehicles in line with the replacement standard of 50,000 miles for these types of vehicles.

ACQUISITION, CONSTRUCTION, IMPROVEMENT, AND RELATED EXPENSES (ACIRE)

The Service's fiscal year 1998 request for the Acquisition, Construction, Improvement, and Related Expenses (ACIRE) account is $9,176,000; a reduction of $28,189,000 from the fiscal year 1997 appropriation of $37,365,000.

Of this amount, $7,176,000 is required for technical support services, special purpose equipment, information systems, dual operations and moving services relative to the Service's headquarters relocation. Funding for these fiscal year 1998 requirements is the responsibility of the Service, and is not covered with the construction of the building through the GSA's Federal Buildings Fund.

Also budgeted under this account is $2,000,000 required to enhance the physical plant maintenance base for the Service's James J. Rowley Training Center. Base funding for routine maintenance and general improvement and upkeep of this facility is currently inadequate.

VIOLENT CRIME REDUCTION TRUST FUND (VCRTF)

The Service's fiscal year 1998 request for funding from the Violent Crime Reduction Trust Fund totals $20,664,000 and 20 FTE. This is $664,000 greater than the level appropriated in fiscal year 1997.

VCRTF PROGRAM CHANGES

The fiscal year 1998 VCRTF budget includes $15,664,000 to further implement White House Security Review recommendations; $3,000,000 to support a number of task forces investigating financial institution fraud; and $2,000,000 to continue to provide unique technical expertise and assistance to federal task forces and to state and local law enforcement for investigations of missing and exploited children. Government Performance and Results Act

The Fiscal Year 1996 Program Performance Report is included in the fiscal year 1998 budget request. This report presents actual fiscal year 1996 performance results. Virtually all significant annual performance goals were met, indicating movement toward achieving the long term strategic goals of the Secret Service. Most annual performance goals in the investigative area were either met or exceeded. This was particularly true in areas reflecting case quality and impact. Highlights of the Fiscal Year 1996 Program Performance Report include:

—The number of travel stops involving the protection of foreign dignitaries exceeded the level anticipated by over 50 percent.

—The Secret Service closed 27,393, criminal cases resulting in 11,889 arrests, reaching its goal in this area. Additionally, the Secret Service was able to surpass the planned number of counterfeiting and financial crime cases closed by concentrating investigative efforts in these high priority areas.

—By effectively utilizing its investigative resources, the Secret Service was able to present financial crime cases for prosecution consistent with the crime suppression strategies of the U.S. Attorneys. This is indicated by both the increased number of arrests for financial crimes, and the number of defendants prosecuted at the Federal level.

—The Secret Service also used its resources in a more efficient and cost saving manner by focusing on significant criminal activity and using joint task force operations. Again, this was indicated with the increased numbers of cases closed and arrests.

PROTECTIVE PROGRAM

The Secret Service protective operations program provides security for the President, the Vice President and other dignitaries and designated individuals; and protection of the White House and other buildings within Washington, D.C.

Protective operations were extraordinarily active last fiscal year. In addition to the presidential campaign, and with the assistance of other Treasury law enforcement bureaus, massive protective security operations were successfully managed for the 50th anniversary meeting of the United Nations General Assembly, the visit of Pope John Paul II, and the 100th Anniversary Olympic Games. By any measure, this was an outstanding and historic effort.

During the campaign, some of the more demanding protective operations, beyond the political conventions in San Diego and Chicago, were a presidential train trip and three presidential bus trips—each bus trip requiring over 100 motorcade vehicles. Also, a candidate/nominee protection CD ROM historical archive was produced to aid in protective planning for the next campaign.

In September and October 1995, during the 50th anniversary meeting of the United Nations General Assembly, 154 Heads-of-State and 72 accompanying spouses re-

ceived protection. This was the largest single protective event in Secret Service history. In comparison, this fiscal year, during the 51st annual meeting of the United Nations General Assembly, 34 Heads-of-State and 10 accompanying spouses received protection.

In October of 1995, Pope John Paul II visited New York and Baltimore. Both of these stops involved huge crowds, large public events, and also involved visits by the President and Vice President.

President Clinton had extensive travel both foreign and domestic during the past campaign year. In April, the President visited Japan, Korea and Russia. After his reelection, President Clinton traveled to Australia, the Philippines, and Thailand.

In October 1996, the President suddenly called for a Middle-East Summit of the Heads-of-State of Israel and Jordan to be held in Washington, D.C. This unexpected event placed a tremendous burden on available resources. Despite many obstacles, a comprehensive security plan was established that contributed to the success of this major event.

The Service is currently planning security for the 1997 Economic Summit of the Industrialized Nations, being held in Denver, Colorado in June. The President will host the Heads-of-State/Government and their spouses of Canada, Germany, Great Britain, France, Italy, and Japan. It is also anticipated that Russian leaders will be invited and that they will attend. The First Lady, the Vice President and Mrs. Gore will also attend the summit. This major protective event will require significant manpower and resources.

Beyond meeting the challenges of major protective events, construction of the new White House Remote Delivery Facility (RDF) was completed last September, and became fully operational the following month. This facility, located at the Anacostia Naval Station, is where Secret Service personnel screen all mail, packages, equipment, supplies and furniture prior to delivery to the White House. With this facility, efficiency has been enhanced through the use of new, state-of-the-art palletized x-ray equipment. This equipment significantly reduces processing time.

Co-located adjacent to the RDF is the new Vehicle Repair Facility which became operational last September. Armored limousines used for the President, Vice-President and foreign dignitaries are housed and repaired in this facility.

PROTECTIVE RESEARCH

The Office of Protective Research has oversight of the Service's protective intelligence, technical security, strategic planning, communications, and information resources management support for both the protective and investigative missions.

Protective intelligence serves as a critical component of the Secret Service's protective mission. The Intelligence Division develops threat assessments in support of protectee visits to domestic and foreign settings; provides warning indicators for specific and generalized threat environments; strengthens liaison with the mental health, law enforcement, and intelligence communities; and conducts operational studies that are needed to stay at the forefront in the effort to predict dangerousness.

During fiscal year 1996, the Secret Service investigated and evaluated 1,903 protective intelligence cases, resulting in 60 arrests and 226 mental health commitments. In the first quarter of fiscal year 1997, 388 protective intelligence cases have been investigated and evaluated, resulting in 10 arrests and 44 mental health commitments.

Also, during fiscal year 1996, the Exceptional Case Study Project (ECSP) final report on the behavior of all persons known to have attacked, or approached for potential attack, a person of prominent public status in the United States since 1950, was completed. ECSP information will be used to better recognize, evaluate, and manage the risks of targeted violence against protectees, before an attack occurs.

The technical security program is involved in numerous, diverse security and investigative related efforts, including major initiatives resulting from the White House Security Review. The following summarizes the most recent efforts concerning these initiatives:

—The third and final phase of additional security enhancements to the White House itself is underway, and the second phase is expected to be completed this fall.

—Permanent crash resistant barriers and guards booths are currently being installed at new control points around the White House perimeter.

—The Joint (command/control/communications) Operations Center is under construction in the Old Executive Office Building, and should be completed this spring. This center will consolidate each critical element within the Secret Service that is responsible for incident command and coordination at the White

House Complex. The center will be the focal point for all security and life safety systems, communications, and specialized detection and assessment programs affecting the White House.

—The Service's evolving chemical and biological threat detection program utilizes specialized scientific equipment and systems, and properly trained response teams, to mitigate potential harm to protectees and protected facilities in the event of an incident.

—The Service expects to complete this fiscal year implementation of a new integrated state-of-the-art White House Access Control System (WHACS) that utilizes electronic badge readers, entry turnstiles, and magnetometers.

In the communications arena, the Federal Law Enforcement Wireless Users Group (FLEWUG) Program Management Office is operational. Plans for fiscal year 1997 are to complete the case study of Federal land mobile radio systems in use in Pittsburgh, Pennsylvania; establish an Iowa test bed for proof of concept testing of linking broad band fiber systems with land mobile radio or other high capacity wireless systems; and achieve initial operation of the Washington, D.C. test bed of narrow-band digital radios.

In the Service's information resources technology program the mainframe computing and the client/server revolution continues to challenge the Service to carefully evaluate the proper mix of the two technologies. One example of integrating a client/server application with a mainframe application is the Combined Operations Logistics System (COLO) which was developed to support the daily operational needs of the candidate/nominee protection program.

INVESTIGATIVE PROGRAM

The Service's investigative activity is a significant and critical element of its mandated mission. For over 130 years, the United States Secret Service has effectively served to protect the integrity of our nation's financial systems. Whether that involves the suppression of counterfeit currency, or the combating of financial institution, access device, or computer fraud, at the local or global level, the Secret Service has been successful; bringing to each of these investigative areas its unique expertise and forensic talents.

United States currency has become the currency of choice world-wide. As the international demand for U.S. dollars has risen over the past several years, the Secret Service has seen a marked increase in the production and seizure of counterfeit U.S. currency outside of our borders. An analysis of the counterfeit currency passed in the United States in 1996 revealed that more than 68 percent originated outside our borders.

There exists a need to maintain emphasis on the interdiction and suppression of counterfeit United States currency outside our borders. Last year, in response to this need, the Secret Service continued to expand its overseas presence, by opening new offices in Hong Kong and Milan. Agents also are dispatched from domestic offices on temporary assignments, and temporary task force operations, to individual countries or regions where a specific problem exists.

The Secret Service continues to conduct seminars and provide training to foreign and domestic authorities concerning the identification of genuine United States currency, and the detection of counterfeit. Foreign training is done under the aegis of the State Department. During fiscal year 1996, the Secret Service conducted more than 180 seminars and training sessions for law enforcement agencies and banking institutions, in more than 30 foreign countries. Additionally, more than 900 training sessions for law enforcement agencies, banking institutions, businesses, and civic organizations were conducted by Secret Service personnel here in the United States.

Half of the counterfeit manufacturing plants that were suppressed by the Secret Service in fiscal year 1996 utilized new reprographic technology, such as office color copier machines and ink jet printers. The Secret Service is the only law enforcement agency with the ability to decode the identification systems that have been incorporated into the new, foreign manufactured generation of full color copier systems, and it has set legal precedence by having this technical evidence accepted in judicial proceedings. Through cooperation with the foreign copier system manufacturers, the Service can determine the copier system make, model, serial number, purchaser name and address, and in some cases, the date and time the counterfeit currency was created. Hopefully, domestic copier manufacturers will decide to include these covert security features in their products, thereby eliminating the need for legislation requiring that action.

The Secret Service has seen the emergence of financial crimes go from the local level to a global level. The Secret Service is continually trying to allocate more resources to already established offices so that it may be successful in its efforts to

suppress these criminal activities. Also, it is more important than ever before that we as an agency enter into a global partnership with other law enforcement.

In its approach to financial crimes investigations, the Secret Service has developed a preventive, risk analysis concept, which seeks to identify systemic weaknesses and vulnerabilities within the financial industry. The Service continually develops strategies, which employ the latest technology, to combat the criminal exploitation of emerging systems and related technology. Experience and expertise acquired during the course of investigating these technical crimes is routinely shared with domestic and foreign law enforcement agencies, the financial industry, and legislative bodies.

The Secret Service recognizes the future of its financial crime investigations will continue to evolve with technology. More than ever the Service must rely on its already established and continuing partnerships with national and international law enforcement agencies, to combat an ever changing global problem. The Secret Service's financial crime investigations will continue to develop a systemic approach to combat this form of economic terrorism. The actual losses associated with financial crime investigations conducted by the Service in fiscal year 1996 were limited to $500 million. This figure represents the actual losses to federally insured financial institutions and other financial systems. The Service is proud of the fact that, while these actual losses are very high, the savings to American businesses and private citizens are even higher. The potential for total losses in these investigations exceeded $10 billion. This figure, arrived at through standards set by the financial industries, indicates the loss which would have been incurred had the criminal activity not been stopped through the intervention of the Secret Service.

Organized criminal groups are a rapidly growing phenomenon throughout the world. For the past ten years, the Secret Service has taken an aggressive approach to this organized criminal activity by establishing throughout the United States and internationally, task forces whose primary focus is the investigation of financial frauds committed by organized criminals. Our experience has shown that organized criminal groups are involved in myriad criminal activities, including credit card and bank fraud, advance fee fraud, immigration benefit fraud, government entitlement fraud, various types of insurance fraud, and the trafficking of narcotics.

Organized criminal groups, based in West Africa, Hong Kong, Russia, and the Middle East, threatens the integrity of America's financial systems by defrauding U.S. citizens and financial institutions, and by conducting fraudulent operations beyond our national borders. In addition to dedicating resources to task forces which address transnational crime, the Service has a permanent presence on a variety of working groups. One such working group, the Lyon Group, is comprised of representatives from all G–7 countries, plus Russia and the European Union. In addition to addressing transnational organized crime issues, this assembly is setting the foundation for establishing law enforcement issues at the upcoming G–7 Summit in Denver, Colorado.

The Service has instituted a counterfeit document database, containing specimens of counterfeit traveler's checks, credit cards, driver licenses, social security cards, and other documents obtained from investigations conducted throughout the world. These counterfeit documents contain unique characteristics which enable us to track criminals' movements, associate investigations, and identify trends. This information is helpful in determining total actual and potential monetary losses on both national and international levels. This level of monetary loss can affect federal sentencing guidelines.

The Service recently established a state-of-the-art telecommunications and computer laboratory to facilitate investigations of the growing number of computer-related crimes. This lab is unique, in the sense that it focuses not only on the forensic examination of computers, but also on the technical examination of telecommunications devices.

The Service's asset forfeiture program has matured. The key element to the success of the program has been its partnership with the Treasury Executive Office for Asset Forfeiture, and a constantly evolving approach which targets criminal enterprises that have a significant impact upon the financial community. An increasing number of Secret Service forfeitures involve organized criminal groups associated with large scale food stamp fraud, and bank fraud utilizing the desk top publishing to produce counterfeit financial instruments.

The Service has continued to expand its use of advanced technology. The Service constantly is increasing the database for its Forensic Information System for Handwriting (FISH), which allows for the searching of handwritten threat letters directed toward the President, Vice President, former Presidents, visiting foreign Heads-of-State, members of Congress, and elected state officials. Recently, a database containing material related to missing and exploited children was added to this system.

The Service continues to give full laboratory support to the Federal Agency Task Force on Missing and Exploited Children and the Morgan P. Hardiman Task Force. We also are expanding our Automated Fingerprint Identification System (AFIS), watermark, computer printer and ink database capabilities for protective and criminal investigations. The Service continually receives requests from other federal, local, and foreign law enforcement agencies and non-law enforcement agencies, and the intelligence community, to establish the date of authenticity of documents through forensic techniques.

The Service strives to exploit and leverage technology in an effort to provide vital services to its field investigators, as directly and efficiently as possible. The Service continues to work toward extending the capabilities of its photo-imagery system to all field offices. This system allows investigators to quickly and accurately transmit digital images of photographs and documents between Secret Service field locations around the world. During the past year, the Service has developed and designed a new electronic Confidential Informant Database that complies with the guidelines set forth by representatives of the Treasury and Justice Departments. This database allows the Secret Service to manage, register, control, and compensate confidential informants using a secure and easy-to-use system.

The Service continues to assist other federal, state and local governmental agencies by lending its expertise in conducting security surveys. Among several such projects conducted in the past year were surveys of the U.S. Capitol Complex, U.S. Supreme Court Building, and the Bureau of Engraving and Printing's Western Currency Facility in Fort Worth, Texas.

Working with the Department of Housing and Urban Development the Service is continuing its involvement in Operation Safe Home by doing security surveys to combat crime in major metropolitan public housing communities. The Service resumed Operation Safe Home in March in Greensboro, North Carolina, after the manpower intensive protective events were completed. Future Operation Safe Home surveys are projected for fiscal year 1997 and fiscal year 1998 in Hartford, Connecticut; New York; Philadelphia; Gary, Indiana; Kansas City, Missouri; and the District of Columbia.

NEW HEADQUARTERS BUILDING AND CONSOLIDATION OF TRAINING

The new headquarters consolidation building design is complete. Below grade foundation construction is underway and is expected to be completed in August. The superstructure construction is scheduled to follow, with phased occupancy expected to start by August 1999.

The design of the new administration building for the Rowley Training Center has been completed and the construction contract is being advertised. The construction contract is scheduled for award in June 1997, with construction to be completed by June 1998.

The prospectus for the classroom building has been prepared and approved by the Office of Management and Budget. This prospectus is being forwarded by the General Service Administration to the Congress for authorization. With authorization action completed by June 1997, it is anticipated that the construction will be completed by August 1999.

The Service has a proud history of performing its job very effectively. The Service moves into the future, with all of its uncertainties, as a unified force to perform its duel missions of providing the highest level of protection for the President of the United States and other designated domestic and foreign dignitaries, and protecting the nation's financial systems through its criminal investigations.

Mr. Chairman, this concludes my statement. I would be pleased to answer any questions that you or other members of the subcommittee may have.

CRIME PREVENTION

Senator CAMPBELL. Maybe before I ask a few questions I might impart a little of my homespun philosophy. As some of you know, I used to be a volunteer counselor in Folsom Prison when I was a policeman and I was head of a board of directors for a halfway house out in Sacramento, CA. I know that the missions of all of your agencies have some common goals but it just seems to me from a broader standpoint when you talk about how do we reduce crime in America, boy, we are sure missing the boat on a lot of things. I know it is not your mission. Your mission primarily is pre-

vention and interdiction and, perhaps, incarceration, too. I keep thinking as the drug war wages on and on and on that we do not seem to be making the kind of successful reduction that we would really like to see as Americans. Until we recognize that the law of supply and demand works for drugs like anything else and your efforts are almost all dealing with the supply side, and if Americans, themselves, cannot be convinced to reduce the demand it will be like Prohibition. You know, you can make all the laws in the world and you can have all kinds of good hardworking law enforcement people, but as long as Americans want it they will find a way to get it.

We rarely put much effort in our crime prevention in education of youngsters, rehabilitation of those people who could be salvaged, and I know that is not in your bailiwick. But I remember one time when I was in Folsom I was talking to a convict there and he was just about to get out. He had been there 5 years. I asked him what he had done—he had sold dope, sold drugs—I asked him if what he had done was worth it to spend 5 years of his life in a penitentiary?

And he told me, well, when I was selling drugs I was making a million bucks a year, and I'm here 5 years, that is better than working. And he had a point. The guy had made something like $5 or $6 million before he got caught and put away and it was just a matter of, you know, kind of a vacation for 5 years but the amount he had made, of course, some of that was confiscated and he did not get it all. Those things happen when he got collared but I got to thinking, holy smoke, if it is that lucrative and if it is that enticing some of these people are just looking at it like the risk you take to make those huge profits.

I realize that has nothing to do with anything, I guess, in your mission, but I wanted to say that.

Let me just ask and I will start with Under Secretary Kelly, the Office of Professional Responsibility was created by the House and signed into law by the 1997 omnibus appropriations bill. According to the House report no funds could be obligated for that office until the House and Senate Appropriations Committees received a detailed plan.

Has there been work on that detailed plan?

Mr. KELLY. Yes, sir; we are and have engaged in discussions with both this Committee staff and the House staff. Hopefully we will reach a resolution as early as tomorrow.

Senator CAMPBELL. Have you also been working with the other agencies on this plan?

Mr. KELLY. Well, I have talked informally to some of the bureau heads about this. We have not had a plan to go forward with and brief. However, the structure of the office, as the report language indicates, is determined by the Under Secretary and the Secretary of the Treasury feels very strongly about this. I believe the structure, itself, is a management decision but we will hopefully have a plan at least approved by the House Committee by the close of business tomorrow and then hopefully with your approval we will be able to go forward.

Senator CAMPBELL. Thank you.

One of the concerns expressed by some of our colleagues last year was the potential of duplication of efforts, most particularly between the Office of Professional Responsibility and the Treasury inspector general. Have there been steps taken to eliminate that or reduce that?

Mr. KELLY. Yes, Mr. Chairman. There is no intention at all for this office to do inspector general type investigations. That is clearly the intention. It is, in essence, an inspection function rather than an investigative function.

Senator CAMPBELL. I thank you.

In the breakdown of fiscal year 1998 budget request for OPR which accompanied the most recent draft organizational plan received by this subcommittee, 3.3 percent is requested for the Federal employee pay raise. As you know, the President has recommended that Federal employees receive an increase of 2.8 percent. So, there is a little discrepancy. Can you explain that?

Mr. KELLY. I think there was, in fact, an error in that, Mr. Chairman, hopefully that will be corrected when we put forward the final plan.

Senator CAMPBELL. I thank you.

Let me go to Commissioner Weise. Am I pronouncing that right, or is it Commissioner Weise?

Mr. WEISE. It is Weise.

OPERATION HARDLINE

Senator CAMPBELL. The last three appropriations bills that passed Congress provided funding for the Hardline program which began in 1994 in response to a dramatic increase in what was called port runners or drug smugglers who try to crash through U.S. land borders in an attempt to escape inspection by Customs authorities. These incidents were a great threat not only to those trying to do the crashing, but to the agents, too.

With Hardline there has been a reported 56 percent decline in port running incidents. Given the success of that program, can you tell the subcommittee how your fiscal year 1998 request would follow on that improvement?

Mr. WEISE. Yes, Mr. Chairman; I thank you very much for acknowledging it. I think it has been a very successful program and I am very appreciative for the support that this Committee has provided.

With the resources that are requested in this pending budget before you, we would have an additional 119 inspectors that we would be putting into the cargo arena. One of the things that we fully expected when we clamped down on the ports of entry—where we had those instances that you talked about—was that the smugglers were getting so brazen that they were not resorting to finding secret compartments, they were simply loading the drugs in the trunk of their car and when they got to the primary inspection booth, speeding through.

We knew full well that one of the likely responses to our clamping down and reducing the opportunity to smuggle through that method would be the scenario of bringing the drugs in via commercial cargo and we have seen, as a matter of fact, record increases in the seizures that we have made in commercial cargo. That is one

of the reasons that we are moving through our fiscal year 1998 budget to put more technology, more of the large container x-ray machines, as well as more inspectors into the cargo arena so that we can be sure that we are there ready for them as they come through using that method of smuggling.

Mr. Chairman, you did not ask the question directly and if you would not mind—regarding the comment that you made to open the question and answer period, I would just like to say that in my judgment you are absolutely right, that we cannot solve the problem through interdiction alone. Interdiction is an extremely important component of trying to deal with the drug problem but we do need to deal with the demand side of this equation as well.

And even though it is not the primary mission of any of the organizations here, I know Mr. Magaw can tell you about some ATF outreach initiatives. And, we in Customs have a number of individuals who take it upon themselves with their own time to go out into the schools with the canines, and you may have had an opportunity to see it work, to help the children early on to understand what illegal drugs are all about. And it has been a tremendously successful program.

As I have traveled around and had the opportunity to talk to my inspectors, I try to reinforce that the work that they do at great personal risk in the trenches is something that is very rewarding to all of us and very important to the American taxpayer. But the work they do in those schools is perhaps, if not equally productive, more productive in terms of dealing with our overall drug mission. And I think that is an important point that I just wanted to get on the record.

BORDER PATROL

Senator CAMPBELL. I appreciate you pointing that out and I certainly commend those agents who are doing that on their own time. I guess one of the weaknesses of running for political office is that it sells when you talk about how tough you are going to be, you know, lock them up, throw away the key, that kind of business. But, when you talk about putting resources, money, toward education and prevention it does not seem to get the visceral rise of the voters. So many elected officials just turn gutless and they do not want to talk about putting money upfront to help kids, they just want to talk later about locking them all up which, as you and I know, is a hell of a lot more expensive.

Given the 5,000 new Border Patrol agents that are going to come on with the INS; how will that affect the impact, the work of the Customs Service?

Mr. WEISE. Well, I cannot answer precisely. We have 38 ports of entry along a 2,000-mile border between us and Mexico. What we found when the Border Patrol beefed up their resources through some very effective operations—Operation Hold the Line and Operation Gatekeeper—basically to deal with the threat of illegal immigrants crossing into the United States, as they put their forces in place between the ports of entry, that is when we had record numbers of the smuggling events at the 38 ports of entry.

Senator CAMPBELL. They look for the line of least resistance kind of?

Mr. WEISE. Exactly. They are looking for the point of least resistance and that is one of the points that we have attempted to make that if you only beef up one side of this and do not beef up the other side, in terms of the budgets with Customs and with INS and the Border Patrol, you find that there will be weaknesses in the system. So, I think it is important that you take a comprehensive view of that border and how the resources are allocated so that there is compatibility and consistency, so that we can maintain those strong defenses throughout the 2,000-mile border.

SMUGGLING

Senator CAMPBELL. Well, clearly as you get better they get better after they find other ways. And you mentioned the hardlining, is that kind of the latest trend in smuggling or are there other ways that are beginning to be on the rise?

Mr. WEISE. Well, as you indicate they are tremendously resourceful and they basically respond and react to wherever our defenses are the greatest. One of the things that we have noted is that we would indicate that there has been a shift in smuggling patterns. We have seen, for example, that our seizures in south Florida and in the Caribbean have increased dramatically over the course of the last 2 years.

Now, I cannot scientifically demonstrate that it is because of the defenses that we have put in Hardline but clearly they are changing patterns constantly, they are looking at points of least resistance. What we are seeing with Mexico, for example, is they are resorting to the waterways again. We have seen increasing smuggling efforts going into San Diego, around us, by sea and in Brownsville, in the gulf. So, we constantly have to be vigilant and try to stay not only with them but try to stay ahead of them.

Senator CAMPBELL. We have noticed in our area, the Rocky Mountain area, an increase. I guess as you apply more pressure in Florida or California they find the line of least resistance, there are more coming through our Mountain States. Last year, as you know, we did start a Rocky Mountain HIDTA program and your agency is involved in that. I would hope that they are gearing up and are of some assistance to the Customs Service, but I do not know if they are active at the ports of entry. Are they at all, the HIDTA program?

Mr. WEISE. Mr. Chairman, there is some activity in the port of entry but we also have 2,000 criminal investigators that are part of the investigative teams working in conjunction with the Drug Enforcement Administration in doing criminal investigations and Customs is a very active participant in all of the HIDTA's including the HIDTA that you referred to.

Senator CAMPBELL. I think I will go ahead and ask Senator Kohl if he has a few questions and maybe I will come back.

Senator KOHL. Thank you very much, Mr. Chairman.

Why don't we start out with you, Mr. Kelly?

Mr. Kelly, according to organizational documents OPR is to provide oversight support in terms of independent factfinding and assessments of bureau actions, policy implementation, training, equal opportunity, internal affairs investigations, and other inspection issues. The office is to be staffed by high-level officials with agency

background to provide independent factfinding and assessment of bureau actions and policy implementation. OPR will also conduct periodic reviews of bureau capabilities, including internal affairs and inspection issues.

Mr. Kelly, do you see this generally as the purpose of OPR?

Mr. KELLY. Yes, sir; I do.

Senator KOHL. Mr. Kelly, should not the bureau directors work directly with you in providing necessary information and interaction?

Mr. KELLY. Necessary information and interaction on a daily basis? Yes, sir; they do.

Senator KOHL. Mr. Kelly, have the directors been given an opportunity to review the draft organizational plan?

Mr. KELLY. Only on an informal basis and not all the directors. But as I said in my answer to the chairman, the appropriations subcommittee language or the report language indicates that the structure will be determined by the Under Secretary. When the Secretary of the Treasury has agreed to the structure that I put forward and we have a formalized, agreed-to structure, then the bureau heads will certainly be involved in the fine-tuning of that.

Senator KOHL. Well, do you believe that it is necessary to have the bureau directors to be given an opportunity to buy into this new plan?

Mr. KELLY. Oh, yes; I do. Yes, sir.

Senator KOHL. Do you think it is going to happen, will happen?

Mr. KELLY. Do I think they will be given an opportunity? Yes, sir; I do, certainly. But we need, again, to come to final resolution on the structure of OPR. We have been in discussions with both the House Committee and the staff of this Committee and your staff, as well, sir. So, when we are able to do that then I think that would afford the opportunity to sit down and talk about the details of the implementation.

OFFICE OF PROFESSIONAL RESPONSIBILITY

Senator KOHL. I would ask the other directors whether or not you all support establishing OPR as defined by the Under Secretary?

Mr. Weise.

Mr. WEISE. Yes; I support it.

Senator KOHL. Any reservations?

Mr. WEISE. None whatsoever.

Senator KOHL. Mr. Magaw.

Mr. MAGAW. Well, I would want to see the plan because we must be careful. I just want to make sure that the director still has the responsibility to run the bureau and if that would change, then I would not want to operate under those circumstances.

Senator KOHL. Thank you.

Mr. Rinkevich.

Mr. RINKEVICH. Senator Kohl, I have not had the opportunity to see the plan and I would associate my comment with Mr. Magaw's. I would like the opportunity to review it and understand how it would impact us. But I do think it is important that bureau heads have accountability along with responsibility for functions.

I certainly have no objection and support proper oversight from the Department to a bureau, but there is a fine line between that oversight and the bureau director's responsibility to implement operationally the functions of that bureau.

Senator KOHL. Are you suggesting that it is important that we carefully define and integrate how this is going to work? That it can work well but if we are not careful, it might not work well?

Mr. RINKEVICH. I think that is true.

Senator KOHL. Mr. Magaw, is that what you said?

Mr. MAGAW. Yes, sir.

Senator KOHL. Mr. Morris.

Mr. MORRIS. Well, I had the opportunity to serve as chief of staff to Mr. Kelly's predecessor during the follow-on to the issues of Waco and the like. I support the concept and clearly the Under Secretary needs the tools necessary to oversee his obligations and responsibilities. And I know, at least when I was there at the main department of the Treasury he did not have them.

So, I certainly support the concept. I am not aware of the details of the plan, but I think the concept makes a lot of sense.

Senator KOHL. Mr. Bowron.

Mr. BOWRON. I am also not familiar with what the current plan is. I tend to think of an Office of Professional Responsibility as one having some responsibility for oversight of investigations and allegations of criminal conduct or unethical conduct, or misconduct on the part of bureau or department officials.

And in that context, I think it is clear that Congress has supported the creation of an Office of Professional Responsibility. I think where the care really has to be taken is to be clear about the difference between oversight, policy oversight, and operational management or operational involvement outside of the affected bureau. And that would be my area of concern.

I think there has already been a decision made and supported by Congress that an Office of Professional Responsibility is a necessary component. I would not second-guess the judgment of Congress in that regard. Personally, I do not feel I have any shortage of oversight now between committees on both the House and Senate side, the Department, the inspector general, and the General Accounting Office. I think there is a lot of oversight right now.

We should not duplicate any of that oversight but, by the same token, an Office of Professional Responsibility may have a unique niche that needs to be filled in this particular case.

Senator KOHL. All right. I thank you very much.

DRUG SEIZURES

Mr. Weise, the drug seizures along the Southwest border rose between 1993 and 1995. Officials dealing with drugs acknowledge that the seizures are small compared with the mountain of drugs that traffickers are believed to smuggle from Mexico each year.

For example, in 1995, we seized 119 tons of marijuana and marijuana believed to enter the United States by land was 4,000 tons. Cocaine seized in 1995 was 11 tons, cocaine estimated to pass from South America to the United States in 1995 was 330 tons. Heroin seized in 1995 was 89 pounds, and heroin estimated to arrive from Mexico to the United States in that same year was 5.5 tons.

According to the Office of National Drug Control Policy's figures, Customs is only seizing 1 percent of all drugs smuggled into the United States. What is Customs doing to increase drug smuggling interdiction efforts? Is it an impossible problem? One percent, Mr. Weise.

And this is not being critical, we understand the difficulty of the problem, there is no suggestion of effort or competence or anything else of that sort. When you look at that percentage the estimate is 1 percent that we are managing to interdict. A cynic, which I am not, might almost suggest that it is an impossible task and that when you look at what we are getting for what we put into it, the question is, is it worth it? One percent.

Mr. WEISE. Mr. Chairman, I am not going to quibble about the numbers. I will tell you that the estimate that we have is that we seize a much larger percentage than 1 percent. Some have estimated it as high as 30, some 10. But, obviously, when we are dealing with the quantity of drugs that are getting through, that is very speculative. We do not have scientific hard numbers, because if we could measure it, we would be seizing it.

So, I would just accept the premise that we are not seizing as much as we need to be seizing to seriously address the drug problem and that is something that is clear. I have acknowledged in my statement that notwithstanding the fact that we have achieved record numbers of seizing more than 1 million pounds for the first time in our history and not losing sight of the fact that we, in the Customs Service, seized more drugs than all other Federal organizations combined, including the DEA, that we are doing in my judgment a decent job. But I think it gets back to the point that the chairman made that you cannot solve the problem through interdiction alone. Because we are a free society, of very open, vast expanses through which drugs can be smuggled into this country, most of which is in our area of responsibility but others, like between the ports of entry, are other organizations', we need to have a comprehensive approach.

And I believe very fervently that interdiction is an important component. Many have said that we ought not to be wasting our time in interdiction. My feeling is the problem would be even worse because we are being successful in disrupting the methodology, the flows. We are changing the way they do their business.

But so long as that demand exists in the United States, no matter what action we take in the interdiction arena, the profit motive is sufficiently broad and great that they are not just going to say, we give up, you have got us.

They are going to continue to move to new areas and new approaches and try to find those areas of vulnerability. My sense is that we need to continue our commitment to interdiction as an important component of the larger whole, but we also need to work more comprehensively. We have to address treatment, we have to address the demand and we have to do this comprehensively. And that to me is the only way that we will ultimately be successful.

All of that being said, seizing drugs is going to continue to be Customs No. 1 priority. We are looking at new methods, new technologies, some of which we have demonstrated—like full-container and cargo x-ray machines—a whole host of new ways of doing the

job so that we can be more effective. We are not going to take anything for granted and we are not going to accept the status quo. We are going to continue to strive to improve.

Senator KOHL. So, your suggestion to the American people, very strongly, is to recognize that unless we do something about the demand in this country, we are not ever going to win the war?

Mr. WEISE. That is my personal feeling, Senator.

BORDER FENCES

Senator KOHL. Well, you are an experienced man and your opinion is very important to get out. I happen to agree with you and I think that is a very important message.

Mr. Weise, is it possible to construct physical barriers to prevent smuggling such as fences? People talk about fences 20 feet high and 10 feet deep. And they cannot, many of them, understand why our borders are not protected by these kinds of fences. Can you comment on that?

Mr. WEISE. Senator, we have been experimenting with fences and I will indicate that it is primarily not for the drug smugglers but more for the question of illegal immigration. And this has been through the Border Patrol that we have seen fences erected along various areas in California and they are obviously hotly controversial. We have historically, traditionally been a free society.

And the local communities are not pleased when they see the fences erected and there are tremendously resourceful people who can get around and over those fences. Because in addition to those fences, you have to have someone there in case someone has the resources to get over the fences. And it is a 2,000-mile border and much of that terrain is not easily fenced because, as you know, in various places there are huge valleys and hills and very difficult terrain.

So, in my judgment you can use fences strategically and tactically in certain areas, but I do not think the answer to the problem is a 2,000-mile fence.

Senator KOHL. Well, now, let us get into that a little bit more. How many ports of entry are on the southern border?

Mr. WEISE. Thirty-eight.

Senator KOHL. So, if we do the job at the ports of entry, which we are capable of doing, particularly with respect to the technology that is coming on board, and if drugs in this country are the problem that they are and we all regard that as such—we are not just paying lip service to it—why should we not at almost any cost build those fences as high as we need to build them and as deeply as we need to build them? What would be the reason not to do it in your opinion?

Mr. WEISE. Well, I am not an expert on this subject but I would think that one of the things you need to do is talk to the Border Patrol and the Immigration and Naturalization Service about their own experience with fences. I think they have seen that fences have been an effective tool when properly positioned to deal with the threats that existed.

And what it does do, which is a point that you are raising, is that it moves people further out away from the fence and, under your theory, if you have a fence the full distance you could solve the

problem. But I think what the Border Patrol's experience has been is that the fence, itself, is not a solution in and of itself. It is an important tool but we have to have Border Patrol officers on this side of the fence to be sure that it is not being penetrated.

But I do not mean to preclude that as an option. I am simply suggesting it is a controversial issue. One that I have not given a lot of thought to as a solution to the Southwest border problem. But I know from many, many trips that I have made to the Southwest border how hotly controversial those fences are in the local communities. People, American citizens, who think that it's just not the way they want to live, notwithstanding that they recognize we are dealing with a serious problem. But, I do not know what more I can say. It is an interesting idea. It is one that, perhaps, ought to be explored. I would not preclude it as an option but I can tell you there would be issues that need to be addressed.

Senator CAMPBELL. If I could interject. You build a fence, you cannot just build up, you have got to build down because of a tunneling. But it would seem to me if you did build a fence what you do basically is increase the sea trade or through the air. You know, we have a longer border along the oceans to try to guard than we do along the land border.

Mr. WEISE. That is one of the reasons, Mr. Chairman, that I think the fences more aptly deal with the issue of people trying to come across and the illegal immigration issue. We have discovered three very sophisticated tunnels, as you have indicated, along that Southwest border.

I already indicated in my earlier statement that we are seeing more people come around us by sea. We are seeing smugglers on the little jet skis that you see at local resorts with the drugs packed in their backpacks and loaded in and around the jet skis. We are seeing little fishing vessels in the Gulf of Mexico.

And we have been very successful in our air interdiction program in the Customs Service. One of the most common ways of smuggling drugs for a decade leading up to the initiation of our air program was by air. You bring it in, you drop it quickly and you get back out. We have mounted some rather significant air defenses that have reduced that flow but, again, the more you put pressure in one area they will not say, we give up, that fence is too tall for us, they will resort to other means.

And, frankly, what I have often felt as we have what we call a southern-tier strategy through Operation Hardline, and we are trying to tighten it all the way from San Diego to San Juan—if that gets too tight, even though it is not a threat area now, Canada can certainly be another border point through which they can come.

Ultimately I do not think you can put a fence around this entire country and that is one of the problems.

AIR INTERDICTION

Senator CAMPBELL. Well, the air creates a whole different problem. I notice with interest one of the displays that we have in the room has some photographs of some airplanes. There is some kind of detection apparatus that can be put on a little small isolated airport so that it monitors any kind of landings. But I know in some places in the Southwest they do not land. They just get it down to

stall speed and dump it out at a prearranged location right in the middle of the desert and pick it up with a four-wheel-drive truck. They do not land. So, I am sure that that is effective to monitor the ones that are going to land but I often wonder how many just do not bother.

Mr. WEISE. Obviously, you cannot employ any one solution alone. That helps us ensure that we do not have to be observing those particular airstrips too much, but we have a rather sophisticated air interdiction system, with radar so that we can see when the incursions occur, when they are not on registered flight plans. And we can show you clear evidence and would love to invite you at your convenience to our air facility in Riverside, CA, where we see clear evidence.

Historically, we saw many of these tracks of aircraft had been crossing into the United States and then returning to Mexico, but they are now landing more in Mexico, coming from South America, landing in Mexico and then using other means to get the drugs from Mexico into the United States over land and by sea and around us in the gulf.

NEW INTERDICTION TECHNOLOGIES

Senator KOHL. Mr. Weise, will you tell us something about the new technologies that are being employed in interdiction?

Mr. WEISE. Well, we have some of them on display in the back. One of the things I think is one of the most important pieces that we are adding to our arsenal, as I mentioned, because of the smuggling that is occurring in commercial cargo, is a prototype in Otay Mesa, CA. It is a full container cargo x-ray machine that is akin to a carwash in that the entire vehicle can come through the machine and we get a good x-ray vision of the compartments of the container.

One of the drawbacks of that is that the x ray, because of safety to the people in and around it, is not of sufficient power to go through the merchandise that may be in boxes in the containers. But what it is very good at and where we are seeing a very prevalent means of smuggling is hollowed out floors or walls or ceilings, in the wheel-wells and things of that nature. And that has been a very important addition to our arsenal. It is not something that you can do in and of itself, it has to have supplementary inspection techniques as well.

Through our budget process we are moving beyond a prototype stage in Otay Mesa. Within this year, with the support of this Committee, we will have four additional machines like that in place and we will have as many as 12 over the next several years through Operation Hardline.

We are also looking at a number of other technologies that I am not an expert on that can actually look into gas tanks and a whole series of things, and we will be more than happy to have the people that really understand the technologies come up and brief you on them more completely, sir.

Senator KOHL. How do you decide where to put this new technology, Mr. Weise?

Mr. WEISE. Again, it is an overall threat analysis. And one of the things we recognize is that once you have these fixed x rays in

place, again like the balloon theory that where your pressure is the greatest, they are likely to go somewhere else.

We are trying to supplement the use of those fixed x rays and those are going to be put in places where we obviously have a very significant cargo trade, where we know the vehicles are coming through but supplementing those with more of a mobile system that is actually on a truck, itself, that can go from port to port and be relocated in a very short period of time, so that we can keep the surprise element and the uncertainty and keep them on their defenses. And, so, we are putting x-ray machines in our fixed locations where the traffic is significantly high and where the threat is significantly high, and supplementing those with others that are more mobile and that we can put on a kind of sporadic, random, unsuspecting basis so that they would not be able to predict where those x-ray machines would likely be.

Senator KOHL. As you look ahead, mobile versus fixed-detection systems, would you comment on one versus the other or are they complementary?

Mr. WEISE. Again, I think they are complementary. I think you need some of both. I do not think it is an either/or proposition. I think the mobile x-ray machines are an important supplement to the fixed. And there are other technologies that we are looking at that would be able to be more powerful without causing risk of harm to humans, that would have greater strength of penetration of the cargo, itself. We are looking at those, as well.

Senator KOHL. Thank you.

And I appreciate your comments. I appreciate particularly your clear expression that in the long run as well as in the short run if we are really going to win this war, it has got to be done finally by reducing the demand in this country. As long as the demand is there, it is pretty hard to interdict 50 or 75 or 100 percent of all the drugs that are being smuggled in.

That is a very clear statement you are making.

Mr. WEISE. Again, it is a personal observation but yes; it is very clear that I believe that.

YOUTH CRIME GUN INITIATIVE

Senator KOHL. OK. Mr. Magaw, would you say that there is a correlation between gun laws and childhood homicides?

Mr. MAGAW. I think the childhood homicides are primarily because of unsafe conditions in the home or wherever they may find the weapons. That is why I am very pleased with the increased interest by Congress in terms of locked weapons and securing those weapons and education for homes and children about weapons.

But I think the gun laws, themselves, do not really have a bearing other than that this country is one that loves firearms and they want to have firearms and they are going to have firearms. So, I think the thing to do is, like seatbelts in an automobile, cause them to use these safety locks.

Senator KOHL. I am aware of Boston's participation in the youth gun crime interdiction initiative. Can you explain to us why this program has been such a success?

Mr. MAGAW. I think somewhat the same as Mr. Weise mentioned. It would take a combination of what is available there. We

brought our abilities to bear in assistance to the Boston Police Department in tracing weapons, in trying to work trafficking cases to cut the flow down, trying to find out who the kinds of persons are that are bringing the weapons in. Those who are on probation and parole they have put probation officers right in the police vehicles as they patrol the streets.

They know these individuals, they know what time they are supposed to be on the street, when they are not supposed to be. So, that has really helped.

Also, educational programs in the schools talking about firearm safety. The penalties of the courts have been much stronger in keeping the very violent criminal element off of the street. But what has really been helpful has been the close working relationship between all entities—Federal, State, county, and local.

Senator KOHL. So, you would emphasize how important it is that you get everybody involved in dealing with the problems that we encounter in the inner city?

Mr. MAGAW. That is correct. I believe, as has been mentioned a couple of times here today, that what we have to really do is work in our elementary schools and our high schools because some of the generations that are out there on the street now are beyond help in a lot of cases because of what they have been through and we still want to try to be helpful to them but you are going to have the same group coming up if we do not do something in the schools. That is why I am very proud of ATF's GREAT Program and also the program that we have in the high schools. We have been doing it here in Washington for a number of years. It has been very successful and now there is an interest in spreading it across the country and that is having a law enforcement academy within the high school.

GANG RESISTANCE EDUCATION AND TRAINING PROGRAM

Senator KOHL. Let us talk about the Gang Resistance Education and Training [GREAT] Program a little bit. It provides grants, as you know, to communities who are participating in and encouraging the prevention of violence. The program, which is taught by uniformed officers, so far, has provided training to over 2 million of our children in this country, primarily they are enrolled in the seventh and eighth grades. Currently it is running in 54 locations, in 21 different States.

Mr. Magaw, you have talked about the GREAT Program as being very promising and I would suspect that you really believe we should continue to fund it?

Mr. MAGAW. Yes, sir; I believe that we should continue to fund it and even though it has not been funded all across the country, you mentioned the 54 locations, it is in every State. Every State and every law enforcement and most of the Governors and mayors throughout this country see the benefit of it.

In fact, the University of Nebraska just did a study to see what the value was and it was very positive. So, the inquiries are something like 200 a month into our headquarters saying, how can you help us set this up? Many cities are funding it themselves and what we are trying to do is provide them the information of how to do it, trying to teach their officers to become instructors and pro-

viding them the school materials and the booklets. We are spending this money very well but we are only supplementing really 44 different programs, but it is in every State now.

Senator KOHL. Well, now, if the program is considered to be the success that we believe it is, why has the funding request remained level for the past 3 years?

Mr. MAGAW. I think it is a matter of OMB, Treasury, and others. We are willing to raise that program up as high as this Congress would see it but what our submissions have been is what is reasonable, what do we believe that Congress will fund.

Senator KOHL. Well, and I appreciate that, but here we talk and so oftentimes, we talk about the need to do prevention. And everybody at the table is suggesting—and you people are ultimately professional and knowledgeable—that we have to do something about prevention, the demand side.

And here is an example and this is one of many of a program or of an area in which we can and should do more to reduce the demand by education, and different prevention programs. Here is a program that works. And yet, the funding is small and it has not increased over the past 3 years. And, so, I am asking you maybe to make a comment more than simply to tell us that, well, it just has not been done because the Congress has not been willing.

Are we making a big mistake in not increasing funding for a program that is directed primarily and clearly at reducing the demand in our society for illicit activities and drugs, the GREAT Program. Should we do more to fund it?

Mr. MAGAW. I believe we should do more to fund it. What I would say, though, is that as we are trying to do now and use the funds as best we can, if a city or a location has the means to fund it themselves then we try to help them with the booklets and train the instructors.

I think we would have to have some kind of guideline because the amount could just blow sky-high if we are not careful. But it is a program that I believe needs to be taken forward and taken forward rather quickly. It is capable of doing that. It has been tried, it has been tested. Like you say, it has been 2 million students. There are about 1,000 instructors. There will be many more than that after this year because we have four or five major instructor programs. And, so, I want to see it grow.

Senator KOHL. Out across the State of Wisconsin I attended several of the GREAT Program presentations in our schools and they are very good and they are very well received by students. They have clearly a positive and a beneficial effect in fighting the war that we are trying to fight in this country. And I am glad to hear you be so positive about it, Mr. Magaw, in strongly encouraging us to continue to fund this, to increase the funding to see to it that every young person in this country at the seventh and eighth grade level is exposed to the GREAT Program which I think is what you are saying.

Mr. MAGAW. That is right. What we would also use other funds for is in the summer program we have tried out. They go right back into the communities that they were born and raised in, so, you have to have periodic updates for them, and we have done that

through a summer program with the Phoenix Police Department, Tucson, and others. And it has been very, very successful.

TRIGGER LOCKS

Senator KOHL. All right.

Just a couple of questions on trigger locks. Now, will you say a few words and I will ask a couple of questions. How do you feel about trigger locks, their use in our society, the importance to have them in our society, proliferating trigger locks. The legislation that I have authored would require trigger locks be sold with handguns from now on in this country, the President's directive that law enforcement officials use trigger locks, how do you feel about trigger locks, Mr. Magaw?

Mr. MAGAW. ATF personnel have used trigger locks for any of the weapons that they have for years. And, so, I am a proponent of trigger locks. I remember back 35 years ago when I was a young State trooper, I did not wear a seatbelt, there was not even a seatbelt in my automobile. Today that seems almost ridiculous. I had to learn to wear a seatbelt. We had to have some guidelines in order to force me to first start using a seatbelt. Now, I do not move the car without a seatbelt, and I believe that these safety devices are in that category. They will be beneficial and it will take the public a period of time to get to use them, but I think clearly they are something that we should push forward.

Senator KOHL. I thank you.

Mr. Chairman, would you like to continue?

Senator CAMPBELL. Yes; since we are asking some questions of Director Magaw, let me ask you a couple.

OKLAHOMA CITY BOMBING

We are now going through the McVeigh trial in Denver, Director Magaw. And some of the Oklahoma bombing victims have filed a multimillion-dollar lawsuit against the Federal Government alleging that the Federal informant had warned the ATF that a building had been targeted for violence associated with the April 19 anniversary of the raid on the Branch Davidian compound in Waco.

If that is accurate, it is rather disturbing and I know you have some constraints of what you can say in public, but I would like to know if you think there is any basis, in fact, to that allegation?

Mr. MAGAW. I find no basis for that allegation, but I, again, have to be very careful because of the muzzle order by the court. That has been an item that has been on some of the families' minds from the very day that it happened.

On that day, when I first learned about it, we made inquiries. I sent an investigative team there to find out what we could determine and the other thing about these claims is that they are not only against ATF but they are virtually all of Government; we should have known and, therefore, we are liable. So, we will have to just wait and let that go forward.

But nothing I have found in the investigation led me to believe that or I would have brought it forward immediately.

IBIS

Senator CAMPBELL. Well, thank you.

In your display back in the back of the room you have a very sophisticated machine that I guess is called IBIS to measure—it compares casings. The FBI also has an identification system called drugfire. A little while ago I talked about duplication of effort. Could you tell me how they compare and why the two agencies could not use the same kind of system?

Mr. MAGAW. They can use the same kind of system, no question about that. Back when the FBI started studying this and started doing their research they were doing shell casings. We felt, at the time, that bullets were also very, very important because there are times—in fact, now, just a crime out in Prince George's County, they picked up all the shell casings because they knew they could be used—but that bullet, whether it is in the body or in the woodwork or wherever it might be is also very important evidence.

So, we started research on the bullet. Well, the commercial company who was working on that with us ended up at the same time developing the technology for the shell casing. So, now that machine will do both.

Senator CAMPBELL. This is IBIS, it will do both?

Mr. MAGAW. It will do both?

Senator CAMPBELL. Will drugfire also do both?

Mr. MAGAW. Drugfire is getting close to being able to do both. In the bullets they cannot quite do them in quite the same manner. I would want somebody independent to look at that and say. But the key thing I believe is that now that the technology has come along where it is really helping local law enforcement we need to get the machines tied together so that they can talk to each other.

And the National Institute of Standards and Technology [NIST] is doing that for us under the guidance of OMB, and with total coordination between Director Freeh and myself. Now, they have got the technology figured out so that the two shell casing units can talk to each other but they are having a little trouble with the bullet being able to talk to each other. So, we will have to see how it goes.

Senator CAMPBELL. I had several questions dealing with the GREAT Program but you have already answered them with great clarity and I appreciate that. Because I think Senator Kohl and I really agree about the increase of youth violence and what we have to do in working with youngsters so, I do appreciate your response to that.

CANINE EXPLOSIVE DETECTION

I am also interested in dogs. I notice you did not have any dogs up here today. But I would note that you have requested funding to expand the canine explosive detection program to train up to 100 dogs a year. First, let me ask you, are there machines that can totally replace that dog's nose now in detecting drugs or bombs?

Mr. MAGAW. There are not. The technology is getting better but it just cannot compare with a well-trained dog. As we have talked before, the combination of both of them are very helpful because the dog cannot do it all in an airport or something like that. But

anything that is suspicious the dog will be more accurate in most cases.

Senator CAMPBELL. Even to a machine like you have back here that measures like 1 in 1 billion parts or something?

Mr. MAGAW. Well, the x-ray technology is not to that capability yet. The dog, itself, we have had for a couple of years now. And there was a demonstration here last year with a dog so we brought some other things this year. But we would be delighted for you to see the dog. The dog can pick up, if you had one small bullet in your pocket or a shell casing or a bullet that had not even been fired. That dog could check all of us in here and it would find that bullet on you, every time.

And when this dog was trained and developed it was an idea of ours but we did not know for sure how well it would work. So, we got our laboratory technicians and we said, as we train this dog you have to make sure that it is laboratory certified.

And, so, this dog is now laboratory certified and now what we feel is that it has been so valuable that we are just beating them up flying them all over the country. That dog went into the Centennial bombing at Atlanta and you can imagine that evening when it happened and you saw that bomb go off, people just dropped everything they had and left.

So, you had backpacks, you had sacks, you had all kinds of things there that that dog had to clear so that we knew we were not putting our personnel and all the law enforcement personnel in jeopardy. That dog cleared that area in about 2½ hours.

It has gone into searches where people have had guns in sealed plastic bags hanging on a hanger inside a suit with a plastic bag over it and that dog will find it. So, they are just so valuable that we feel that for all of law enforcement—and we do not want those dogs for ourselves. We will train those dogs like we have the fire dogs, the arson dogs, and put them out in the country where they can be used day to day by local law enforcement. The only agreement is that when we need them for a particular case, they will bring them to us. Most of the time the case is right close to where they are and they are helping anyway. We do not go out and work any of these cases by ourselves, it always involves the local community.

It has worked very well on the arson side and we feel this will work very well on the explosive side. We have done it also for foreign countries. Israel is tremendously happy with it. Some of your Soviet bloc countries are tremendously happy with it.

So, we just feel that it has been very well tested, that they are dependable, they have to be recertified and we would just like to see the program move forward. We think it is a benefit for law enforcement.

Senator CAMPBELL. I notice that in pictures I have seen, you use more of one breed than another. More German shepherds as an example it seems like. Is there any reason for that?

I have a German shepherd and she is a real nice dog but years ago I had a Weimaraner and that dog had a nose so good, that dog could actually track me if I was in a car, could follow the tire tracks on a dirt road. Or if I was on a horse could follow the horse where I got on the horse and got off to follow me.

Mr. MAGAW. The observation you are making is exactly the right one. Labradors and Weimaraners are the ones that they are going to for this kind of work. In fact, our dog that we put through all these tests that I talked to you about is a Labrador. Your German shepherds were initially brought into the program in law enforcement a number of years ago when they were used for a different purpose. They were used as guard dogs for protection. If somebody was in a dark area with a weapon and you needed to go in, they would send a dog in first and those kinds of things.

So, for most of our work, although there are some German shepherds, most of them are Labradors. Their nose is so good. They can go into a fire scene where you have nothing but water and muck and three or four walls down on top of it and they will sniff around and they will go right over to where that fire was started, where the accelerant was used.

Senator CAMPBELL. Yes; they are amazing. Any old hunter that uses dogs will tell you that if you get them too fat they will not hunt. See, their nose gets more acute when they are a little hungry. Not that I want to see any starved dogs but that is what all the hunters tell me if they are a little hungry their nose gets very acute.

Mr. MAGAW. See, again, that is a very good theory because this dog on explosives is trained exactly that way. We do not have a ball that it plays with, we do not have a toy that it gets if it finds it, it gets food. And now that has to be measured, you have to make sure you have got the right amount of vitamins and everything else and that is why it has scientifically been worked out. But they are much more effective that way.

Senator CAMPBELL. In 1997, the House report states that ATF establish a joint canine explosive detection unit with the FAA at either National or Dulles Airports. What is the status of that pilot program?

Mr. MAGAW. It is going to be done at Dulles. We feel that is the best place to do it along with the Federal forces that are there. It is a matter now of working out with Customs personnel as to whether we are going to work part of the time in Customs, whether both dog units will work the same area or whether they will split them up? How can the best evaluation be done at the end of that period of time? And, so, that is where we are. We are in pretty much the final stages.

Senator CAMPBELL. Thank you.

I might tell all of you that we are running on a little bit and I have quite a number of questions for my end of it. I am going to ask a few of each of you and then I am going to submit some that I would like some answers for the record.

Before I go on and ask the other panelists, Herb, if you have a few more, why don't you proceed?

YOUTH CRIME GUN INITIATIVE

Senator KOHL. Yes, Mr. Chairman, I just have one final question for Mr. Magaw.

Mr. Magaw, what do you suggest we do to reduce juvenile access to firearms in this country?

Mr. MAGAW. Well, there is a program now on—and we just had a success in your city just the other day—there are 17 cities throughout the country that we are trying to trace every crime gun and having schools try to watch for weapons that we can trace to find out where these weapons are coming from.

In a lot of occasions these weapons are coming from adults. As these 17 cities are evaluated, and we find out where they are coming from we believe then we can shut down the flow, and that is what we have got to do. Just like we were talking about the drug flow, we have to interrupt this flow. It was interrupted in Boston and that was very vital. In Milwaukee, the other day, they arrested an individual who had been providing guns for juveniles and there was one robbery and four other shootings committed with these guns.

So, it is in the early stage. It has only been operational for 8 or 10 months now, but it is one that we feel once we iron all the kinks out it would be viable to spread around the country.

When I was on the street in law enforcement and I arrested somebody with a firearm I did not even think about tracing it. If it solved that crime right now, I did not think about it being a bigger problem. In talking to Mr. Rinkevich this morning, for these young officers who are coming on all over the country, we should get into their curriculum firearms identification, firearms trafficking and firearms tracing, so that whenever they come upon a weapon they will trace it. And that is what these 17 cities have agreed to do. They will trace every weapon they get in their hands, and that is going to be an enormous help.

Senator KOHL. I think you said youth gun crime initiative.

Mr. MAGAW. That is right.

Senator KOHL. That is a good program, very promising program. But curiously, Mr. Magaw, correct me if I am wrong, I do not think there is any request for funding in 1998 for that program.

Mr. MAGAW. Well, it will be the 17 cities and it is a 2-year research project and that would go through 1998. We then hope we will come back here next year, tell you the value of it, how it has worked, what the kinks have been and then get your judgment on where it should go from there.

Senator KOHL. All right.

Can we move on to the Secret Service, Mr. Chairman?

Senator CAMPBELL. Yes; just go ahead.

Senator KOHL. OK, Mr. Bowron.

SECURITY

What level of security would the Secret Service be satisfied with, Mr. Bowron?

Any level?

Mr. BOWRON. No; not any level. The best security that we can provide in an open society, and I think that that is what we do provide; but that certainly is a resource-intensive and labor-intensive process to provide that kind of security.

Senator KOHL. Has that level of security, in terms of what you need and what you have, gone up exponentially since 1960's?

Mr. BOWRON. Yes; because the world is a more dangerous place. There are things happening in this country now that happened only in other parts of the world before.

Technology and the increase in the number of extremist individuals and groups has increased and, in general, the world is a more dangerous place than it was before.

Senator KOHL. So, over the past several years, the number of threats that you face has increased dramatically?

Mr. BOWRON. Yes.

There is an increase in the number of threats but maybe more than the number of threats, the seriousness of the threat and the potential of the threat.

Senator KOHL. Now, this is an opinion that you have or I would like to hear about it. What happened? Back in the 1940's and 1950's we did not have this. We have it today. What has happened in our society, in your opinion, that has elevated the violence, the threat of violence?

Mr. BOWRON. Well, I think that in general in our society there is an increase in extremist philosophies and antigovernment philosophies. There is an increase in the availability of weapons, explosives, and the information that would give one the ability to carry out these kinds of threats. For example, the information needed to manufacture explosive devices like the one used in Oklahoma City is widely available in publications and on the Internet. Even information that is specific to how you might shape a charge to maximize the damage in one particular direction versus another.

I also think that political volatility around the world certainly contributes to an increase in the overall threat and in the intelligence picture, that we rely on in order to assess what our protective needs are.

MILITIA MOVEMENT IN THE UNITED STATES

Senator KOHL. Would you tell us about the militia movement in the United States and the threat that that presents to your organization?

Mr. BOWRON. Well, I think that, first of all, in general, some of the rhetoric of the militia movement that is antigovernment is problematic, in and of itself, as a part of those organizations.

But I think that a problem associated with that that may be even more problematic is that there are individual members or participants in militia groups, or extremist groups, that endorse the philosophy of that group, who become frustrated with the lack of action, in their view on the part of that group. And then they engage in what I think is generally referred to as leaderless acts. I mean they, as an individual, are going to be the person that does not just talk about it, does not just go to the meetings, does not just participate in the discussion, but goes and does something.

That is a big problem, from the standpoint of law enforcement, from the standpoint of gathering intelligence. Sometimes those people are not acting with a tremendous network of support through an organized group, but they just believe and endorse the philosophy of a group and are acting on their own, or with a much smaller number of people.

So, I think that certainly it is important for law enforcement to be able to have available the tools to monitor the activity of those groups relative to criminal activity, and to be able to provide intelligence. And sometimes that can be a very fine line in terms of what is appropriate in terms of the investigation of a group; because really it has to be predicated on some illegal act.

I mean people can have a group and should not necessarily be subjected to an investigation but, by the same token, some of the rhetoric and some of the antigovernment philosophies espoused by those groups can become very problematic and need to be a part of the intelligence picture.

Senator KOHL. Thank you.

TASK FORCES

Mr. Bowron, what is the West African task force? Would you explain that to us?

Mr. BOWRON. We have task forces in a number of cities across the country that really have centered on criminal activity, that is, organized criminal activity, perpetrated primarily by West African organized groups. We have even had agents working with the Nigerian Government in Lagos, Nigeria, because some of the crime emanates from there and affects the United States through members of those organizations here.

So, those task forces are centered in major cities around the United States where we work with State and local as well as Federal law enforcement to try and bring all the expertise to bear on a wide range of criminal activities. Because, you know, certainly the criminal element does not compartmentalize. I mean they are truly infected with the entrepreneurial spirit, and they will just go where the money is.

Money is the object of their criminal activity. So, it is very important, I think, for us to not be too compartmentalized in our approach to addressing that criminal activity and task forces seem to work best. Task forces give you the broadest expertise, in terms of investigative and technical ability, and also maximize the jurisdiction that you can rely on in order to investigate and prosecute those organized groups.

ADVANCED FEE FRAUD

Senator KOHL. The State of Wisconsin has been the target of a fraud known as advanced fee fraud. In my State, alone, over 350 businesses and individuals have been sent solicitation letters. Recipients are told that they have been singled out to share in multimillion-dollar windfall profits for doing absolutely nothing. Can you tell us a little more about this sort of fraud and what your agency is doing to try and prevent it?

Mr. BOWRON. It is a very widespread problem throughout the United States and also in the United Kingdom. That is one of the specific areas where we have worked with the Nigerian Government in Lagos, Nigeria, to identify the principal targets involved in that scheme. It is commonly known as 419 investigations; 419 happens to be the statute in Nigerian law that is violated.

The scheme is basically they send out a very official looking letter. In fact, we have a blowup of one in the back in our display.

It purports to be from a Nigerian bank or from an official government organization. The approach is to try and glean from the recipient of the letter some information that enables the criminal to extract money from that recipient.

They will ask for your business letterhead, for a check, and what they are offering is, we have an enormous amount of money that we need to move from accounts in Nigeria and, for a percentage, we would like you to use your bank account to move this money.

Sometimes, frankly, the recipient of the letter may have a little larceny in their heart; because it is obvious from the letter that these may not be legal funds in some instances. In other instances, that is not the case.

But, as a result of receiving the letter and being offered this enormous amount of money just for the use of your business account or your bank account, they draw you into the scheme. Once you are drawn into the scheme then they begin to tell you well, before we can complete this transaction there are certain taxes that have to be paid, or certain legal fees that have to be paid. In other words, now they are asking you for money in order to complete this transaction.

Now, we can sit here and think that most people would not go for a scheme like that, but the fact of the matter is that an awful lot of people have, and hundreds of millions of dollars have been lost by enormous numbers of victims. However, the good news is, we have identified who we think the key perpetrators of that particular scheme are, although it is by no means over with. We have gone through banking channels and public information channels to make people more aware of that scheme. And that has worked; the number of notifications we receive in terms of people receiving those letters is increasing.

So we are able to give them information about that scheme before they are actually victimized. I can tell you, it has been so serious that people have actually gone to Nigeria, and lost their lives trying to recover their money. We have, in fact, been instrumental in getting some folks out of Nigeria who were there to get their money, before any harm came to them. But it is still a serious problem. It is very widespread. They take the shotgun approach, and certainly have been successful.

COUNTERFEIT CURRENCY

Senator KOHL. We thank you for that information. Finally, on the counterfeit currency, Mr. Bowron, do you have the authority and the resources to deal with this problem insofar as you are able to at this time?

Mr. BOWRON. Yes, we do. The committee has been very supportive in terms of providing us with resources, particularly funding for increasing our staffing overseas. We are working through that process. And overseas is important in the counterfeit context because so much of the counterfeit appearing in the United States now originates overseas and is manufactured overseas.

We have not completed our staffing at this point, but we have completed a substantial amount of it. We have some positions that are under appeal. Those positions that we ultimately do not get at the requested location we are going to suggest some alternative lo-

cations that would work geographically and logistically. But we have made great strides, and appreciate the support of the committee.

Senator KOHL. Very good. I thank you.

Mr. Chairman, would you like to——

Senator CAMPBELL. I have some questions for Director Rinkevich. While we are on this subject about counterfeit money, do we have an estimate of the amount of counterfeit money that is coming to this country?

Mr. BOWRON. Yes.

Senator CAMPBELL. You probably have, certainly of what you have confiscated. That would be my first question.

Mr. BOWRON. We can provide you with specific numbers. In terms of the amount that is seized overseas and the amount that comes into this country in circulation——

Senator CAMPBELL. You do not know offhand?

Mr. BOWRON. I cannot give you a total amount in terms of what is taken out of circulation. But I will——

Senator CAMPBELL. Will you provide that to the committee?

Mr. BOWRON. Yes.

Senator CAMPBELL. One other question dealing with counterfeit money. Do we have any proof that foreign governments are involved in counterfeiting American money?

Mr. BOWRON. No.

Senator CAMPBELL. Thank you.

Director Rinkevich, let me ask you a couple of questions about FLETC. You requested and received a total of $1.46 million for fiscal year 1997 for environmental compliance. In 1998 you are asking an additional $111,000. What is that for, just cost overruns or something?

ENVIRONMENTAL REQUESTS

Mr. RINKEVICH. No, Mr. Chairman, that will be to expand the Center's ability to deal with environmental issues. The Center, as you know, occupies a World War II era naval installation and we are still dealing with environmental concerns that were left to us from the early days of that facility's use. Plus, we do have activities at the Center that indeed contribute to environmental problems: firearms training with the lead and associated activities, and photography and photo labs and those type of problems.

These dollars are to enhance our ability to make sure that we do the proper things in terms of controlling our activities and remediating the environmental concerns. Some of those concerns were there before us, and others may have been created subsequent to our takeover.

Senator CAMPBELL. You have also requested $3.993 million and 26 new FTE's for mandatory workload adjustments. As I understand it, $1.925 million would be required to pay the compensation and benefits for 26 new instructors. What is the breakdown for the remaining $2.068 million?

FUNDING WORKLOAD INCREASES

Mr. RINKEVICH. Those mandatory workload increases, Mr. Chairman, are a result of the increase in the workload. That is how we

derive those increases. A big part of that is for the compensation and benefits for the 26 instructors. It is about $1.9 million. Another $1.2 million is for the permanent change-in-station cost in bringing those instructors to the Center after we have hired them. Also, there are training, travel, and equipment costs associated with the new instructors. So the total comes up to just short of $4 million.

Senator CAMPBELL. You are also requesting $18.618 million from the crime bill funding for master plan construction costs. If that is appropriated, what is the status of the completion of the master plan construction, No. 1? And No. 2, is the INS and the Border Patrol buildup playing into your master plan?

MASTER PLAN FUNDING

Mr. RINKEVICH. Yes, sir; it is. The status of the master plan activity is that if the $18.6 million in this request is approved by the Congress we will be at about 60 percent in the appropriation of dollars necessary for the implementation of our master plan. That document, by the way, was originally developed in 1989. It is now 8 years old. We have in-house revised that document two times and are in the process of a third revision which this committee will see in the not-too-distant future.

ENVIRONMENTAL CHANGES

Enough things have happened at the Center, the environment in which we operate has changed, the workload has changed and shifted to the point that our plans are to engage another consultant to assist us in doing a complete review of our facility needs against projected workload. So the status is about 60 percent of the master plan will have been appropriated, if this budget is approved.

INS PARTICIPATION

In regard to the Immigration and naturalization Service [INS] participation, I can say affirmatively that not only do we actively involve the INS, but we involve all of our customer agencies, particularly the larger ones that are posted at the Center, in the development of projects for submission to this committee as well as the actual undertaking of the design of those projects. We are proud of the customer orientation that we have at the Center. We want to be sure that any dollars that are entrusted to us to build facilities are going to meet the unique needs of the various agencies.

So INS, as well as every other agency at the Center, are very heavily involved in the design of projects, and the design of the facilities.

Senator CAMPBELL. We talked when you were in my office the other day about the temporary FLETC facility in Charleston, SC. Could you tell the committee of the current status of that training facility, and how long you expect it to be needed, and perhaps the final price tag on the necessary renovations of the temporary facility?

TEMPORARY FACILITY

Mr. RINKEVICH. The status of the temporary facility is that it is operational. The population that is there, at any given time, ranges

between 450 and 600. That population is entirely made up of Border Patrol agent trainees. We, the Department of Justice, and the Department of the Treasury are very committed to deactivating our participation at that installation at the end of fiscal year 1999. That is the intention we clearly have, and I know that is also an interest this committee shares.

COST OF TEMPORARY SITE

We have looked at figures that the Department of Justice has developed for a continuation of activities at the Charleston site. In fact, these are figures that I received just recently from Justice. They estimate that if that facility were to become a permanent facility to handle just the Border Patrol training, not including the other INS training, that the cost of bringing that facility on line for permanent use would be somewhere close to $110 million. The cost that has already been invested is over $8 million, and those costs were from appropriations that the INS received from the Congress.

Senator CAMPBELL. Thank you. Considering there is no Georgia Senator on this panel it may indeed be a temporary facility. But these things, you never know.

You have requested $1 million from the crime bill fund for the rural drug training initiative. Could you explain that proposal, please?

CRIME BILL FUNDING

Mr. RINKEVICH. Yes, sir; when Director Magaw was referring to conversations he and I had about weapons tracing and explosives recognition, that is the concept that we are talking about incorporating into our rural drug training initiative. This is an initiative that was authorized by the Congress 2 years ago. This appropriation request has $1 million in it to implement that initiative for future and current programs, and the delivery of about six programs that are focused and targeted on rural law enforcement organizations.

SMALL LAW ENFORCEMENT AGENCY TRAINING

As you may know 90 percent of America's law enforcement agencies consist of 50 or fewer officers. So there is a great deal of law enforcement in this country that is undertaken by smalltown police departments. The problem that they have, obviously, is that many of them are so small that they cannot afford financially or timewise for the officers to be away from their duty post for training. So the concept of this program is to deliver the training to them in locations that they can go to conveniently and at less cost.

BENEFIT OF TRAIN-THE-TRAINER

It also embodies the notion of train-the-trainer. Four of these programs would be programs that train trainers from communities. Then rural communities could cascade that information out to other neighboring jurisdictions.

Senator CAMPBELL. Along that line, if they attend as space available, as I understand it, is there travel to and from training? Is

that provided by FLETC or is that their local departments responsibility?

STATE AND LOCAL REQUIREMENTS

Mr. RINKEVICH. That is a requirement of the local departments for State and local training that we do, Mr. Chairman. They are required to absorb the cost of travel to and from the Center.

PREPARED STATEMENT

Senator CAMPBELL. Speaking of Georgia, I would like to introduce at Senator Coverdell's request this very, very nice statement on FLETC in Glynco, GA, for the record, without objection.

[The statement follows:]

PREPARED STATEMENT OF SENATOR COVERDELL

Chairman Campbell, members of the Subcommittee, and guest, I appreciate the opportunity to submit testimony as you consider the fiscal year 1998 Treasury Postal Appropriations bill. Although I would very much like to deliver these remarks in person, I am unable due to a scheduling conflict.

As you are aware, I am currently chairing the Foreign Relations Subcommittee on Western Hemisphere. Part of this Subcommittee's jurisdiction, which I have made as one of my highest priorities, is to reignite the nation's drug interdiction efforts, as well as protect our citizens from terrorist activities. Through this Chairmanship, I have had the opportunity to obtain direct feedback from our nation's law enforcement officers on what they feel is needed in their day-to-day activities in protecting our borders and citizens. Although they have mentioned several immediate needs, the one that is continually brought to my attention is the deployment of more federal law enforcement officers.

As you know, Congress has committed to increase the number of federal agents on the job. As we move forward in this effort, we must also fulfill our obligation to the U.S. taxpayers by making sure these new agents are properly trained in the most cost-effective manner.

As you know, prior to 1970, training of our federal law enforcement agents was divided between respective federal agencies. After the completion of two studies, the federal government came to the realization that this fragmented system had discrepancies in training, duplication of efforts, and inefficient use of funds. As a result, Congress authorized the creation of the Consolidated Federal Law Enforcement Training Center, whose purpose was to create high quality, standardized, and cost-effective training for our federal officers.

This new organization was temporarily headquartered in Washington, D.C. until 1975 when, after much study, a permanent location was found at the former Naval Air Station in Brunswick, Georgia. Since then, the Consolidated Federal Law Enforcement Training Center has been renamed the Federal Law Enforcement Training Center (FLETC), and has been training and graduating the many men and women who continue to fight for our safety.

As you consider your bill, I would like to express my support for the agency's appropriation request of $119,541,000. As you may know, this request not only includes funds for the administrative costs in running FLETC, but also includes the training reimbursement funds from 72 federal agencies, including the INS and Border Patrol, whose roles are currently expanding.

I would also like to bring to your attention the need to complete the master construction plan at FLETC and express my support for the agency's appropriation request of $18.6 million to be applied towards the completion of this plan. Approximately 52 percent of the master plan has been completed and additional appropriations would allow FLETC to again move closer toward its goal of being the centralized training center for our federal agencies.

Whether traveling in my home state of Georgia, or chairing a Subcommittee hearing on drug interdiction, the need to address the crisis we face with drugs and crime is constantly brought to my attention. Through continued funding and support of the Federal Law Enforcement Training Center, we will be able to take the necessary steps to achieve this goal for all Americans.

Once again, thank you for allowing me to testify today and for all you and your colleagues on the Subcommittee are doing for our country.

ADDITIONAL QUESTIONS

Senator CAMPBELL. Senator Shelby, did you have some questions you would like to ask of this panel?

Senator SHELBY. I have no questions of the panel. I am glad to see all of them.

Senator CAMPBELL. We will go back to Senator Kohl. If you have some more we will do another round here.

Senator KOHL. The Federal Law Enforcement Training Center, Mr. Rinkevich, in the past several years your estimate versus what actually occurred with respect to training personnel has been 15 to 25 to 35 percent off. Would you explain this problem to us and what we can do to rectify it, because we then allocate money to you and go through the problem of having an overallocation. How are we going to deal with that or how would you suggest we deal with this misestimate that occurs?

BUDGETARY PROCESS ESTIMATES

Mr. RINKEVICH. The circumstance, Mr. Kohl, is that the estimates that we base our workload projections on come to us from the agencies. As you know, the budgetary process in the Federal Government requires those kinds of estimates to be developed by the agencies in the preparation of their budgets some 18 months in advance of the actual fiscal year in which they would be implemented. So we are at the mercy of agencies projecting accurately the numbers of new hires and other training resources that they are going to demand of us. So the agencies do their very best, but there are conditions that occur after they have made their projections that either increase or in some cases decrease.

DISCOUNT POLICY

Recognizing that, the Center has taken those agency projections and applied an experience factor to them to give us a more realistic number. For example, we know that over time their numbers decrease by 20 to 25 percent. So we apply a discount factor.

There have been few exceptions to this discount practice. In the case of the INS estimates this year, we have not discounted those because we and they have been so certain that those are going to be delivered for both 1997 and 1998. We also have not discounted the Bureau of Prisons estimates because they, too, are very much on target. But every other agency we have discounted.

SOLUTION TO OVERESTIMATING NUMBERS

The solution to the problem is one that is already in place. One or two years ago the Congress authorized the Center to have an account in which certain unexpected dollars for training in one fiscal year could be held over for use in another year for the same purpose. That amount would go into an account which would be applied to the next year's needs for training. So we have a multiyear account that rolls over from year to year. It rolls over up to 3 years, and it is designed to provide a cushion or an amount that can be committed to training in ensuing years.

So I think, Mr. Kohl, the solution is really quite effective at this point.

Senator KOHL. Anything that this committee can do to help you?

CLOSING

Mr. RINKEVICH. I can think of nothing other than the committee's ability to understand the difficultly that FLETC and our participating agencies have in predicting what we are going to need so far in advance. Also, your understanding of the fact that those numbers are, in some cases, soft. They are all we have for projecting our training numbers in advance.

Senator KOHL. I thank you.

SUSPICIOUS ACTIVITY REPORTING SYSTEM

Mr. Morris, how many criminal referrals did FinCEN receive last year?

Mr. MORRIS. Last year, a new system was put in place which we call the suspicious activity reporting system. That includes money laundering referrals from banks as well as criminal referrals that are required by the five bank regulatory agencies. I give that background because I can give a bit more precise answer.

We received 64,000 referrals from financial institutions, 40 percent of those relating to money laundering and Bank Secrecy Act violations which is the law that banks are obliged to follow in terms of currency reporting. So 64,000 is the total answer. In the old format, that would mean that about 60 percent of those were criminal referrals, such things as bank fraud and embezzlement and the like.

Senator KOHL. Of those referrals how many of those was FinCEN instrumental in resolving or solving?

Mr. MORRIS. Our job is a network. We take some pride in the fact that FinCEN—its last letter, N standing for network—was a network before being a network was cool, before the efforts and focus were on the information superhighway.

Our job really is to get that information into the hands of multiple law enforcement and regulatory agencies that have criminal jurisdiction. Our primary purpose in this program is to make sure that the Secret Service, the Customs Service, the Internal Revenue Service, the FBI, and the States and localities having investigative jurisdiction have that information quickly and accurately. This happens 100 percent of the time.

FinCEN uses that data base to begin to examine trends and problems in efforts to identify potential investigative targets for follow-on by the investigative agencies.

Senator KOHL. Will financial institutions profit from being vendors of electronic commerce for Government?

Mr. MORRIS. I think that question probably more appropriately fits in the other F agency at Treasury, the Financial Management Service. The system as I understand that the Treasury Department is in the process of developing will be the movement of benefit payments electronically. At present, I think the answer is yes, the electronic transfer that exists at present will result in some profit basis so that the services are provided.

There is also a consideration being used to using some of the new electronic money forms in that regard as well, and my guess is that markets will develop, as they tend to, when the Government begins

to move large amounts of money and there will be profits involved in that, yes.

Senator KOHL. As you know, what we are talking about here is the requirement by January 1, 1999, that all Federal payments, wages, salaries, retirements, and so on be made electronically.

Mr. MORRIS. That is correct.

Senator KOHL. So should we or should we not be looking to see that banks are not making extraordinary profits from transferring these Federal payment benefits?

Mr. MORRIS. I think probably that question is inappropriately raised to my agency. I can either defer to the Under Secretary, but the short answer is that the Department is examining this whole effort. I am not really privy to the details of how it will work or what the relationship with the financial institutions will be. We are interested at the margins of the activity, as is the Secret Service, in terms of its potential for fraud and for creating financial crimes. But how that system actually goes into place is being explored at the Department.

Senator KOHL. I thank you.

Mr. Chairman.

Senator CAMPBELL. Thank you.

COUNTERFEITING

Mr. Morris, let me just ask you. It is illegal to counterfeit money. Most of your work is done with bills rather than coins, right? I mean, not many people counterfeit coins. It is not time efficient, I suppose.

Mr. MORRIS. Counterfeiting is my colleague at the left. Mr. Bowron, would be happy to deal with that question.

Senator CAMPBELL. I got some of my questions mixed up. Let me ask Mr. Bowron that same question. Most of your efforts are done with paper, I suppose.

Mr. BOWRON. That is true, Mr. Chairman. Certainly in those cases, and there have been some where there is counterfeiting of coins, that certainly would fall within our jurisdiction. But that is by far the exception in terms of our investigative activity.

Senator CAMPBELL. If I went to Las Vegas, they make coins like tokens sometimes for their machines.

Mr. BOWRON. That is right.

Senator CAMPBELL. Is it illegal to counterfeit those if you were inclined to do so?

Mr. BOWRON. Yes; but it is not necessarily—that is not a Federal payment system so that is not necessarily in the jurisdiction of the Secret Service; but it would be a violation of a State or local law. In fact, that has occurred.

Senator CAMPBELL. It has?

Mr. BOWRON. Yes.

Senator CAMPBELL. I'm a jeweler, I could make one of those. But I guess I will not now that you have told me that. [Laughter.]

NATIONAL CENTER FOR MISSING AND EXPLOITED CHILDREN

I was pleased to note the participation of the Secret Service in the National Center for Missing and Exploited Children. Could you

elaborate a little on the results record you have had since you have become involved? A very admirable effort.

Mr. BOWRON. Yes, sir; we have worked with the National Center for Missing and Exploited Children in a number of different cases, and our support and our involvement has primarily been through forensic activities that were developed mostly in conjunction with our protective mission. These forensic activities have a tremendous value in those kinds of investigations.

The specific forensic activities include handwriting technology, a forensic information system for handwriting that we have, and fingerprint technology which relies on a rather extensive AFIS network that we have developed by networking four different AFIS vending systems through the Secret Service, and polygraph examinations. Also even in the area of cellular telephone communications investigations, we have been successful in working with State and local law enforcement to recover some victims of kidnapping and exploitation.

Senator CAMPBELL. Do most of those requests come from local law enforcement agencies that need help?

Mr. BOWRON. Almost exclusively. It comes through the center to us to support State and local law enforcement.

RELATIONSHIP WITH OFFICE OF NATIONAL DRUG CONTROL POLICY

Senator CAMPBELL. Director Morris, drug money is closely linked to money laundering. You mentioned something along this line. I would like to know how you interact with the drug czar's office.

Mr. MORRIS. FinCEN has a good relationship with the Office of National Drug Control Policy. I know the challenges that they face. I served for 2 years, a number of years ago, as the deputy director in the drug czar's office.

Senator CAMPBELL. You did?

Mr. MORRIS. Yes; I did. It is a very difficult challenge trying to do all the necessary coordination. I think also FinCEN is a unique agency in that we have some 28 different agencies who have agents or analysts assigned to our organization. So I think there is a natural kind of relationship between our organization and the ONDCP because we also interact with lots of other departments of the Government.

General McCaffrey has been out to FinCEN, as well as a number of his senior staff. They have been involved in our close working relationships with banks and nonbanks. They are a member of the Under Secretary's antimoney laundering working group called the Bank Secrecy Act advisory group, and they have participated in the group as well as in some of our international initiatives. So I think our working relationships are quite close with them.

Senator CAMPBELL. I have a number of other questions I would like to submit to each one of you and have you answer, but I have no more for this panel. Senator Kohl, do you? Senator Shelby?

Senator SHELBY. No; I have no——

Senator KOHL. No; I would simply say that it has been a really good session.

Senator CAMPBELL. Very informative.

Senator KOHL. You are good people. You are doing a good job, and you will continue to have our support. We are working toward the same goals.

Senator CAMPBELL. We particularly thank you for setting up these terrific displays, not only for our education, but I am sure that many people in the audience found them very interesting, too. If there are people here who have not seen them, before you leave you might take a good look.

I have a conflict, so I would like to ask Senator Shelby, if he has the time, if he would chair the last panel.

Senator SHELBY. Be glad to.

Senator CAMPBELL. If you will do that, I am going to have to run. Thank you.

The last panel will be Ms. Valerie Lau of the Treasury's Inspector General's Office.

PANEL 2

DEPARTMENT OF THE TREASURY

STATEMENT OF HON. VALERIE LAU, INSPECTOR GENERAL

ACCOMPANIED BY RICHARD CALAHAN, DEPUTY INSPECTOR GENERAL

INTRODUCTION OF WITNESS

Senator SHELBY. Ms. Lau, we are glad to have you here today. I understand you are accompanied by your deputy, Richard Calahan?

Ms. LAU. Yes, sir; I am.

PREPARED STATEMENT

Senator SHELBY. Ms. Lau, we have your complete statement and it will be made part of the record.

[The statement follows:]

PREPARED STATEMENT OF VALERIE LAU

Mr. Chairman, Members of the Committee, I am Valerie Lau, Treasury Inspector General, and I am pleased to appear before you today to discuss the fiscal year 1998 budget request for the Salaries and Expenses Appropriation of the Department of the Treasury's Office of Inspector General (OIG).

Sitting at the table with me today is Mr. Richard B. Calahan, Deputy Inspector General. Also accompanying me are Mr. Dennis S. Schindel, Assistant Inspector General for Audit; Ms. Raisa Otero-Cesario, Assistant Inspector General for Investigations; Mr. Gary L. Whittington, Assistant Inspector General for Resources; Mr. William Pugh, Deputy Assistant Inspector General for Audit (Financial Management); and Ms. Lori Y. Vassar, Counsel to the Inspector General.

I have prepared a formal statement which, with your permission, I will submit for the record.

MISSION

As you know, the Treasury Office of Inspector General (OIG) was established by the 1988 Amendments to the Inspector General (IG) Act of 1978. The mission of all OIG's is to conduct independent and objective audits and investigations relating to the programs and operations of their respective Departments; to make recommendations that promote economy, efficiency and effectiveness; and to prevent and detect fraud and abuse.

Unlike most other OIG's, however, the Amendments did not create a single audit and investigative entity for the Treasury Department. Instead, we share that responsibility and have oversight of other audit and investigative units within the four law enforcement bureaus. Simply put, the Treasury OIG has direct audit responsibility for all bureaus except the Internal Revenue Service (IRS). We have oversight responsibility for the internal audit and investigative functions of the IRS Chief Inspector's office and the internal affairs and inspection functions of the Customs Service, the Bureau of Alcohol, Tobacco and Firearms, and the Secret Service. In addition, we have investigative responsibility for all other Treasury bureaus and for all senior level officials departmentwide.

Please keep in mind this unique structure, mandated by the IG Act Amendments, as we discuss the activities of my office.

Today, we would like to describe what we have accomplished and discuss what we hope to achieve in the years ahead. We realize that what counts are the results

made possible by the resources entrusted to us through this process. This submission reflects our first efforts to integrate our strategic plan into our request.

OIG STRATEGIC DIRECTION

We want to accomplish our mission in a way that will maximize our impact by focusing on what is most important. The strategic goals that support our mission are:

—Promote Economy, Efficiency and Effectiveness
—Improve Financial Management
—Heighten Integrity Awareness and Deterrence
—Monitor Departmental Information Systems Development
—Address High-Priority Issues That Benefit Customers and Stakeholders
—Continually Improve Through Employee and Organizational Development

We have identified strategies to accomplish each of these goals. As an example, to promote economy, efficiency, and effectiveness, we are developing a system for long and short-range planning which will identify programs and activities subject to high risk and vulnerabilities. The plan focuses particular attention on areas which reflect the Department's priorities. These priorities, identified from the Department's budget justification, include such issues as "Strengthening Internal Financial Management" and "Improving Border Operations." We will use our plan to direct our audit resources in a way that will provide coverage to significant and sensitive Treasury programs and operations.

I believe that this process—establishing goals and strategies for the long term, setting annual targets, managing to achieve those targets, and reporting annually on our progress—can help us manage our programs more efficiently and effectively and make informed budget decisions.

FISCAL YEAR 1998 BUDGET

Our fiscal year 1998 budget request is $31.333 million and 313 direct full-time equivalents (FTE). This represents a net increase of $1.563 million and 8 FTE over fiscal year 1997. The net $1.563 million increase includes: $0.614 million and 8 FTE to cover a workload adjustment to support audit functions that review all facets of Treasury's operations; $0.787 million to cover cost adjustments necessary to maintain our current levels; and $0.162 million to cover pay annualization.

OIG PROGRESS

My office has made steady progress in increasing its effectiveness. We have made significant progress in three specific areas—improving Treasury's financial management, developing in-house information technology capability, and strengthening our organizational independence. We have accomplished these by using our existing resources more effectively.

First, we have focused a good portion of our audit resources towards helping the Treasury Department improve financial management through financial statement audits mandated by the Chief Financial Officer's (CFO) Act and Government Management Reform Act (GMRA). As you know, this year we are responsible for auditing the first Departmentwide financial statements. This is a large undertaking. In fiscal year 1995, Treasury's revenue collections amounted to $1.4 trillion, accounting for almost all the Government's revenue.

In less than three years, we have built one of the strongest financial statement audit groups in the Inspector General (IG) community. We have seen progress in financial management as measured by improved levels of audit assurance. We intend to build on this success. Treasury has made great strides in financial management, but there is still a great deal to be done. This will continue to be a major focus for us.

Second, we have made progress in developing our information technology (IT) capacity. Information technology and its applications are of critical importance to the Department. Until two years ago, we relied largely on contracted IT expertise to support our audits and other projects. We did not have any in-house automated data processing (ADP) audit expertise. Last year I reported to the Committee that we had hired a senior ADP manager and combined the staffs of our ADP support group with a small ADP audit group under his leadership. I charged the new office with making information technology a strategic resource, and I am pleased with the progress we have made so far.

This Office of Information Technology (OIT) has provided basic ADP audit training to our audit staff and instructed financial auditors in the use of computer assisted audit techniques. In addition, they direct the ADP audit work of the IT contractors we use when our office needs additional IT expertise.

OIT has also improved our ability to use information technology to better advantage. One year ago, our only means of electronic communication was an obsolete and expensive computer system based on ten year old technology. During the year, we designed a new network, financed it using available funds, and began installation. As of today, we have installed local area networks and new software in the majority of our offices, supporting over 80 percent of our employees. By early spring, we will have local area networks installed in all of our offices and will be connected to the Treasury Communications System. This will improve our ability to share information and make our work processes more efficient.

When I became Inspector General, I was dismayed to learn that the office had no system to account for project costs. During the past year, we have designed a new management information system that will run on our new network. This new system combines audit information, investigations case information, and project costs to give us a full picture of our activities. The new system will be initially installed April 1, 1997, and fully implemented by October 1, 1997.

Third, we have strengthened our organizational independence. Last year, I reported that the General Counsel and I had entered into a Memorandum of Understanding (MOU) to ensure the provision of independent legal services by establishing procedures so that my counsel could provide legal advice independent of the Office of the General Counsel (OGC) and sever communications about any particular subject. During my tenure, the OIG has handled many issues that required the exercise of independent legal advice. Accordingly, my counsel had in practice not reported to or been under the general supervision of the General Counsel. Because the MOU did not adequately reflect the independent relationship between my counsel and the OGC, the General Counsel and I rescinded the MOU. The Department's organizational structure will now reflect that my counsel is solely an employee of the OIG who reports directly to and is supervised by my office.

OPERATIONAL RESULTS

The OIG has four line functions, Investigations and Oversight, Audit, Information Technology, and Evaluations.

Investigations and Oversight

During fiscal year 1996, the Office of Investigations (OI) closed 156 cases resulting in 16 successful prosecutions, 7 suspensions or debarments, 50 administrative sanctions, and approximately $8 million in monetary benefits.

Last year, I informed the Committee that OI had initiated an investigation into the area of Workman's Compensation and this could result in significant savings to the Government. One particular Workman's Compensation investigation resulted in a $967,000 savings to the government. Also, OI received special recognition from United States Attorneys in two different judicial districts, for its outstanding efforts in conducting criminal investigations.

During fiscal year 1996, the Office of Oversight issued five reports concerning the operations and programs of the four law enforcement bureaus' internal affairs and inspection offices. At the present time, we have an additional nine reviews in progress. They address whether the internal affairs and inspections groups adhere to professional investigative standards, the economy and efficiency with which their operations and programs are carried out, and their compliance with applicable laws and regulations.

Audit

During fiscal year 1996, we issued 111 Treasury OIG audit and evaluation reports including approximately $26 million in total questioned costs and funds that the bureaus could put to better use in their operations. These reports covered a range of Treasury operations.

We continue to strengthen our financial statement auditing capabilities and work with the Department and GAO to improve financial management in Treasury. In the past year's audit work, we have achieved measurable progress and have laid a strong foundation for meeting the challenges of the Department's expanded financial reporting responsibilities while improving the Department's financial management.

The OIG audited Customs, Bureau of Alcohol, Tobacco and Firearms (ATF), the Exchange Stabilization Fund, and a significant portion of the Treasury Forfeiture Fund. By working with Customs, we have moved from a disclaimer of opinion to a qualified opinion on their balance sheet on the fiscal year 1995 Financial Statement. With ATF's assistance, we quickly identified weaknesses and through ATF's vigorous actions, corrections were made. Thus, we were able to issue an unqualified opinion on ATF's fiscal year 1995 balance sheet on their very first financial statement audit. The fiscal year 1996 audits of these two bureaus are currently in

progress. In both cases, management has made additional improvements in internal controls and financial reporting processes. We have also performed audit surveys of Secret Service and Bureau of Public Debt (BPD), and provided oversight and technical assistance for eight audits performed by contractors.

This year we are focusing more program audit efforts in the areas of violent crime, money laundering and border operations. In Customs and ATF, we have begun to concentrate on revenue areas such as user fees and excise taxes. We also plan to perform audits in some of the new areas of responsibility in Treasury such as Electronic Benefits Transfer (EBT) and the Debt Collection Improvement Act.

This year we will be implementing a new audit follow-up system, and we will be devoting more resources on prior audit recommendations to ensure management has taken adequate corrective action. For example, we are following up on our report of the Department's oversight of Tax Systems Modernization (TSM).

Information Technology

Our Office of Information Technology supports both financial and program audit efforts. During its first year, this office has made great progress in their efforts to assist and add value to our audits. The recent Information Technology Management Reform Act of 1996, Federal Financial Management Improvement Act of 1996, and other legislation clearly indicate Congress' intention to make technology work and we are committed to do our part.

Specifically, our OIT staff provides training and technical support to our financial auditors in the use of computer assisted audit techniques. The OIT staff has also used contractors to test computer controls on our Customs and Alcohol, Tobacco and Firearms financial audits and performed this work on our Secret Service financial audit. The OIT is currently involved in planning for future financial audit work at the Internal Revenue Service, Financial Management Service, and Bureau of Public Debt. The OIT is also supporting our program auditors, specifically in the reviews of the Tax Systems Modernization Program at IRS and the implementation of the Seized Asset and Case Tracking system (SEACATS) at Customs.

We are also in the final stages of a departmentwide IT survey designed to identify the major risks affecting departmental and bureau information technology initiatives and operations. The survey focuses on IT strategic management, technical architecture, systems development and project management as well as the inherent risk in current development projects. The results of this survey report will be used to plan future audits in the information technology area.

Evaluations

Our Office of Evaluation's first year of operation has focused its attention on assisting the Department with consultative services to address emerging issues and problems before vulnerabilities develop. These services have suggested the use of strategic planning to assist Treasury in coordinating with other agencies, encouraged the upgrading of automation to better manage regulatory functions, and provided operational frameworks for implementing new initiatives. The evaluators have also continued to assist the Bureaus in implementing the Government Performance and Results Act by identifying practical issues that impact performance, and suggesting approaches to integrating strategic and tactical planning.

CONCLUSION

In summary, we have worked hard to make our organization stronger and better equipped to handle the challenges of a large oversight mandate in a department with many significant and diverse functions. We thank you for your support and look forward to continued progress with your help.

This concludes my opening statement. My staff and I will be happy to answer any questions you may have.

STATUS OF INVESTIGATION

Senator SHELBY. If I can just proceed. When I was chairing this committee back in this past year you appeared before the subcommittee. I had intended today to just touch briefly on the status of your office's investigation, but in light of some new information that you have provided, I would like to discuss this in more detail here today.

I have other questions on budget matters that I will submit for the record if we do not get to them today.

Ms. LAU. That is fine, Senator.

Senator SHELBY. Madam Inspector General, I received a copy of your letter dated April 16, 1997, informing me that you have closed your investigation into the Secret Service testimony. I am glad to hear that. I would like to submit a copy of that letter for the record as well as copies of two letters that were sent to Senator Stevens and Congressman Waxman informing them of your office's decision. Without objection, that will be done.

Ms. LAU. Thank you.

[The information follows:]

LETTERS FROM VALERIE LAU

DEPARTMENT OF THE TREASURY,
Washington, DC, April 25, 1997.

Hon. BEN NIGHTHORSE CAMPBELL,
Chairman, Subcommittee on Treasury and General Government, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: When I appeared before your subcommittee April 17, 1997, I did not have the opportunity to enter an opening oral statement into the record. With your permission, I would like to submit for the record a group of letters dated April 16, 1997. In particular, I refer to my letter addressed to Senator Shelby regarding testimony before this Subcommittee last December.

That letter summarizes two items regarding the Office of Inspector Generals (OIG) investigation of the Secret Service's computer system used to generate White House access lists. First, we have closed this investigation pending resolution of investigative access issues with the Secret Service. As we have informed you, the investigation has been inactive because the Secret Service will not provide the OIG full and unrestricted access to the employees and records needed to conduct this investigation. The Secret Service has insisted that all requests for information and contact with Service employees be done through the Office of Inspection, their internal affairs office. We have attempted to resolve the matter directly with the Service and through the management chain of command. We do not believe that we can conduct a credible and independent investigation under the circumstances imposed by the Service. We have notified the requesters and the Independent Counsel to explain our decision.

Second, I would like to clarify my previous testimony before this Subcommittee last December. My testimony was based on information available to me at that time. I recently learned of the existence of administrative tracking documents which apparently, for one week, listed two Secret Service agents as subjects of an investigation. I have been informed that within a week, the OIG investigators handling this case concluded that no subjects could or should be identified based on the information available at that time. Consequently, the tracking document was revised.

These documents facilitate administrative management of the investigative caseload and normally would not come to my attention. I became aware of these documents April 11 and directed by staff to immediately notify interested parties, such as your staff. We have referred this matter to the Integrity Committee of the President's Council on Integrity and Efficiency for appropriate action.

I assure you that I have been forthcoming in my responses to the Subcommittee. Thank you for this opportunity to set the record straight.

Sincerely,

VALERIE LAU,
Inspector General.

DEPARTMENT OF THE TREASURY,
Washington, DC, April 16, 1997.

Hon. RICHARD SHELBY,
U.S. Senate,
Washington, DC.

DEAR SENATOR SHELBY: I want to update you on the status of the investigation of the U.S. Secret Service (USSS) computer system (Waves) used to generate lists of persons authorized to have access to the White House. First, pending resolution of investigative access issues with the USSS, we are closing this investigation. As

we have informed you, the investigation has been inactive because the USSS will not provide the Office of Inspector General (OIG) full and unrestricted access to the employees and records associated with this investigation. The USSS has insisted that all requests for information and contact with USSS employees be accomplished through the Office of Inspection, the USSS internal affairs office. Enclosed are copies of letters to Congressman Waxman and Senator Stevens explaining this decision.

Second, as we have discussed with your staff this week, I would like to clarify my testimony before your Subcommittee on December 2, 1996. My testimony was based on information that I had at the time of the hearing. My comments were accurate in that our investigation involved the process by which the USSS developed and maintained lists to the White House. However, for a short period of time our case management records listed the two agents as subjects of the investigation. These documents facilitate administrative management of the investigation caseload and normally would not come to my attention. I would like to inform you of information of which I have recently been apprised so that there is no misunderstanding.

According to our procedures, the Regional Inspectors General for Investigations (RIGI) open cases. When an investigation is initiated, a Case Tracking Document (CTD) is prepared containing descriptive information pertaining to the allegations. A CTD can be prepared periodically throughout the investigation as specific information is received or as the status of the investigation changes. It is not uncommon to generate several CTD's during the course of an investigation. For most investigations, there are a minimum of two CTD's, an opening and a closing.

For the USSS Waves list investigation, there are currently two CTD's. The first CTD was completed on October 2, 1996, and listed two USSS agents and unknown USSS employees as subjects. This CTD was sent to the Office of Investigations, Headquarters for entry into the Management Information System (MIS). On October 4, 1996, OIG agents met with a Minority staff member of the House Government Reform and Oversight Committee and received a copy of the USSS agents' testimony. Our agents reviewed the testimony and concluded that the USSS agents' testimony was not in question; the preparation of that testimony and the process of producing the lists was. They discussed this information with the RIGI on October 8, 1996.

The RIGI and her agents agreed that the USSS agents were not the subjects of this investigation. I have been informed that October 9, 1996 the RIGI prepared an updated CTD, reflecting that this investigation was based on letters received from Congresswoman Collins and Senator Stevens requesting that we investigate the process by which the USSS Waves list was developed and maintained and that the subjects were unknown. This CTD was sent to the Office of Investigations, Headquarters for entry into the MIS.

Upon receipt of this updated CTD in Headquarters, the subjects listed on the first CTD were deleted from the MIS and the system was updated to reflect that the subjects were unknown. This status has not changed.

Should you or your staff wish to discuss this please let me know.

Sincerely,

VALERIE LAU,
Inspector General.

Enclosures.

DEPARTMENT OF THE TREASURY,
Washington, DC, April 16, 1997.

Hon. JIM KOLBE,
Chairman, Subcommittee on Treasury, Postal Service and General Government, Committee on Appropriations, U.S. House of Representatives, Washington, DC.

DEAR MR. KOLBE: I want to update you on the status of the investigation of the U.S. Secret Service (USSS) computer system (Waves) used to generate lists of persons authorized to have access to the White House. First, pending resolution of investigative access issues with the USSS, we are closing this investigation. As we have informed you, the investigation has been inactive because the USSS will not provide the Office of Inspector General (OIG) full and unrestricted access to the employees and records associated with this investigation. The USSS has insisted that all requests for information and contact with USSS employees be accomplished through the Office of Inspection, the USSS internal affairs office. Enclosed are copies of letters to Congressman Waxman and Senator Stevens explaining this decision.

Second, as we have discussed with your staff this week, I would like to clarify my testimony before the Subcommittee on February 26, 1997. My testimony was based on information that I had at the time of the hearing. My comments were ac-

curate in that our investigation involved the process by which the USSS developed and maintained lists to the White House. However, for a short period of time our case management records listed the two agents as subjects of the investigation. These documents facilitate administrative management of the investigation caseload and normally would not come to my attention. I would like to inform you of information of which I have recently been apprised so that there is no misunderstanding.

According to our procedures, the Regional Inspectors General for Investigations (RIGI) open cases. When an investigation is initiated, a Case Tracking Document (CTD) is prepared containing descriptive information pertaining to the allegations. A CTD can be prepared periodically throughout the investigation as specific information is received or as the status of the investigation changes. It is not uncommon to generate several CTD's during the course of an investigation. For most investigations, there are a minimum of two CTD's, an opening and a closing.

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The RIGI and her agents agreed that the USSS agents were not the subjects of this investigation. I have been informed that October 9, 1996 the RIGI prepared an updated CTD, reflecting that this investigation was based on letters received from Congresswoman Collins and Senator Stevens requesting that we investigate the process by which the USSS Waves list was developed and maintained and that the subjects were unknown. This CTD was sent to the Office of Investigations, Headquarters for entry into the MIS.

Upon receipt of this updated CTD in Headquarters, the subjects listed on the first CTD were deleted from the MIS and the system was updated to reflect that the subjects were unknown. This status has not changed.

Should you or your staff wish to discuss this please let me know.

Sincerely,

VALERIE LAU,
Inspector General.

Enclosures.

DEPARTMENT OF THE TREASURY,
Washington, DC, April 16, 1997.

Hon. HENRY A. WAXMAN,
Ranking Minority Member, Committee on Government Reform and Oversight, U.S. House of Representatives, Washington, DC.

DEAR MR. WAXMAN: On September 25, 1996, the then-Ranking Minority Member of the Committee on Government Reform and Oversight requested an investigation into the preparation of certain testimonies before the Committee related to the creation of lists of persons authorized to have access to the White House. The initiation of an investigation was predicated on the notification by the Office of Independent Counsel (OIC) that an investigation could be conducted, without impeding their inquiry, subject to certain restrictions.

To conduct this investigation requires unfettered access to records and personnel of the USSS. Initial contacts with the USSS established that the USSS was unwilling to provide the OIG with any access which was not coordinated with the USSS Office of Inspection. Under the current circumstances, we are unable to conduct a credible and independent investigation. The OIG would not be able to attest to the accuracy or veracity of the investigative results, if required to work through the USSS Office of Inspection. It is the position of the OIG that this constitutes an unreasonable denial of access by the USSS. The OIG has attempted to resolve this matter directly with the USSS and through the management chain of command within Treasury. The Inspector General Act, as amended ("I.G. Act", 5 U.S.C.A. App. 3), provides that such instances of unreasonable refusal of access be reported to the Department and disclosed in the Semiannual Report to Congress (IG Act, § 6(b)2). The OIG intends to report this matter in the next report to Congress.

As it is not appropriate for the OIG to conduct this investigation under the conditions imposed by the USSS, the OIG is closing this investigation. When and if the question of access with the USSS is resolved, the OIG will reopen the investigation.

If you have any questions or require any further assistance, please contact me.

Sincerely,

VALERIE LAU,
Inspector General.

DEPARTMENT OF THE TREASURY,
Washington, DC, April 16, 1997.

Hon. TED STEVENS,
U.S. Senate,
Washington, DC.

DEAR SENATOR STEVENS: On June 18, 1996, you requested that the Office of Inspector General (OIG) look into the creation, handling and dissemination of background investigation files and the capabilities of the computer system used by the United States Secret Service (USSS) to generate lists of persons authorized to have access to the White House. Subsequently, the USSS provided testimony regarding the process by which the White House access list is maintained and updated. The then-Ranking Minority Member of the House Committee on Government Reform and Oversight made a separate request for an investigation into the preparation of testimony provided by Secret Service officials before that Committee. The initiation of an investigation was predicated on the notification by the Office of Independent Counsel (OIC) that an investigation could be conducted, without impeding their inquiry, subject to certain restrictions.

To conduct this investigation requires unfettered access to records and personnel of the USSS. Initial contacts with the USSS established that the USSS was unwilling to provide the OIG with any access which was not coordinated with the USSS Office of Inspection. Under the current circumstances, we are unable to conduct a credible and independent investigation. The OIG would not be able to attest to the accuracy or veracity of the investigative results, if required to work through the USSS Office of Inspection. It is the position of the OIG that this constitutes an unreasonable denial of access by the USSS. The OIG has attempted to resolve this matter directly with the USSS and through the management chain of command within Treasury. The Inspector General Act, as amended ("I.G. Act", 5 U.S.C.A. App. 3), provides that such instances of unreasonable refusal of access be reported to the Department and disclosed in the Semiannual Report to Congress (IG Act, § 6(b)2). The OIG intends to report this matter in the next report to Congress.

As it is not appropriate for the OIG to conduct this investigation under the conditions imposed by the USSS, the OIG is closing this investigation. When and if the question of access with the USSS is resolved, the OIG will reopen the investigation.

If you have any questions or require any further assistance, please contact me, or a member of your staff may contact Raisa Otero-Cesario, Assistant Inspector General for Investigations.

Sincerely,

VALERIE LAU,
Inspector General.

ATTEMPT TO CLARIFY RECORD

Senator SHELBY. Your letter also attempts to clarify your previous testimony before this committee in light of documents and information that has been brought to the committee's attention.

Ms. LAU. Yes, sir.

Senator SHELBY. I want to start off by saying that while I appreciate your office's desire to clarify the record, I am not pleased by it. In fact, I am sincerely disturbed. About a week ago I was made aware by your office that new information had come to their attention that clearly showed that on October 2, 1996, your office did in fact open a criminal investigation into the testimony of two specific Secret Service agents and this investigation was opened solely at the request of Congresswoman Cardiss Collins at that time, not

Senator Stevens and Congresswoman Collins as has been previously maintained by you.

Your office provided me a copy of an e-mail which was sent from them. Do you have copies of all of this?

Ms. LAU. Yes, sir; I do. Thank you.

Senator SHELBY. Your office provided me a copy of an e-mail which was sent from then-assistant inspector general for investigations, James Cottos, to Emily Coleman, regional inspector general for investigations. The e-mail is dated October 2, 1996, and it reads—I would like to ask also that this be made part of the record. Without objection, it is so ordered.

[The information follows:]

INTEROFFICE MEMORANDUM

OCTOBER 2, 1996.

To: Emily P. Coleman.
From: James Cottos.
CC: Raisa Otero-Cesario.
Subject: Investigation of Secret Service Testimony of 7/17/96.

I talked to Lori Vassar this morning regarding the letter from Congresswoman Cardiss Collins. Lori talked to Don Goldberg, the staffer for Congresswoman Collins, about the Secret Service testimony on 7/17/96. The Congresswoman strongly believes that the Secret Service representatives committed perjury and obstruction of justice when they testified. The staffer has all the documents we need to initiate the investigation—a transcript of the testimony, the lists provided, etc.

Lori said we have received clearance from the Independent Counsel to proceed, with the restriction that we clear names with them before interviews of Secret Service personnel. The contact attorneys at Independent Counsel are Rod Rosenstein or Steve Colloton. I'm sending copies of the two letters with SA Carl Hoecker, who stopped by to drop some documents off this morning. Let me know is you have any questions.

Thanks,

JIM.

CONCERNS ABOUT PRIVACY RIGHTS

Senator SHELBY. The e-mail is from James Cottos with a cc to Raisa Otero-Cesario and the subject matter is investigation of the Secret Service testimony of July 17, 1996.

Ms. LAU. Excuse me, sir, I also have a copy of that e-mail and I believe for one item I am concerned about the privacy rights of the individual's named on the e-mail itself. I would be happy——

Senator SHELBY. Well, we are concerned about a lot of things that you perhaps misled this committee intentionally.

Ms. LAU. It was not my intention to mislead the committee.

Senator SHELBY. That is why we want to get into this. But you have got this, do you not?

Ms. LAU. I have it, sir. I wanted to raise my concern about the privacy rights of the individuals who are named on the e-mail. I would be happy——

Senator SHELBY. I will respect their rights, but I am getting into the substance of—you do have a copy of this?

Ms. LAU. I do have a copy.

Senator SHELBY. For the record, could you explain what it says without mentioning the people?

Ms. LAU. If I could preface it, it is from the then-assistant inspector general for investigations to the regional inspector general for investigations, and the cc is to the deputy assistant inspector gen-

eral for investigations. Thank you for letting me clarify the roles of those individuals.

Senator SHELBY. You go ahead. What is the substance of it?

Ms. LAU. The substance of it is an authorization from the assistant inspector general for investigations to commence an investigation.

Senator SHELBY. What is the nature of the investigation?

Ms. LAU. According to his information, he indicates that it is regarding the testimony of the two Secret Service agents provided on July 17, 1996.

Senator SHELBY. It was regarding their testimony before Congress, was it not?

Ms. LAU. Yes, sir; before the House Committee on Government Reform and Oversight.

Senator SHELBY. Your office also explained that on that time on October 2, 1996, that your office opened a perjury investigation into the testimony of two named Secret Service agents based on the Congresswoman's request. I was informed that a case tracking form was opened on October 2, 1996, identifying Congresswoman Collins as the requester and naming two agents as the subjects of this investigation.

According to your office, this form was later changed to October 9 to reflect that the investigation was based on the request of both Senator Stevens and Congresswoman Collins, the specific agents named were removed as subjects, and the nature of the investigation was changed to address the preparation of testimony by the Secret Service and their policies and procedures for producing access lists to the White House.

CASE TRACKING DOCUMENT

Ms. LAU. Senator Shelby, my staff have informed me that within a week of the preparation of the case tracking document, the case tracking document was revised by the OIG investigators who were handling the investigations. They had concluded, based on their preliminary evaluation of the evidence that no subjects could be or should be identified based on the information available at the time. Consequently, the case tracking document was revised to reflect that there were no known subjects of the investigation.

Mr. CALAHAN. If I might just give some perspective?

Senator SHELBY. You go ahead.

Mr. CALAHAN. This form is frequently changed throughout an investigation. Normally what happens in our investigation offices is that the regional inspector general for investigations will receive information that is indicative that maybe an investigation should be started, and one of the first things they do will be to fill out this form so that the agents involved can charge time to the case. They normally when they first fill out the form the first time they put whatever information they might have pertaining to the case on the form. Then through the process of the investigation this form is changed when better information comes to light.

Senator SHELBY. It looks to me like that maybe this form was changed for reasons other than that. In other words, when did you learn of the change?

Mr. CALAHAN. I learned of the change last Friday morning, April 11, at 9:30 in a meeting with the assistant inspector general for investigations, the regional inspector general for investigations, and the supervisor on the investigation.

Senator SHELBY. Ms. Lau, when did you learn of the change?

Ms. LAU. I learned of this from Mr. Calahan following his meeting.

Mr. CALAHAN. I informed her immediately.

Ms. LAU. And I in turn directed him to contact interested parties such as your staff that very same day.

Senator SHELBY. I want to go ahead. Your office explained that at that time on October 2, 1996, your office opened a perjury investigation. I went through that. But according to your office this form that we keep talking about was later changed to October 9 that you just mentioned to reflect that the investigation was based on the request of both Senator Stevens and Congresswoman Collins, the specific agents' names were removed as subjects, and the nature of the investigation was changed to address the preparation of testimony by the Secret Service and their policies and procedures for producing access lists to the White House. I mentioned that earlier. Let me go on.

In addition, I was informed that it was not until sometime after October 2 that the Office of Inspector General, your office, considered the Stevens' request and decided to join the two requests in one investigation. An explanation from Emily Coleman, the regional inspector general for investigations for the eastern region explaining this change in the investigation was also provided and I would ask that this be made part of the record. And it will be, without objection.

[The information follows:]

In preparation for the hearing scheduled for April 17, 1997, I was reviewing the voluminous material gathered to date on the USSS Waves list investigation. During this review I realized that a discrepancy had occurred regarding the case opening tracking form. I will discuss the discrepancy below:

The Case Tracking Form (CTF) in the file is the second form done on this case. The original CTF (copy attached) was completed on October 2, 1997. This form was completed based on information supplied by former Assistant Inspector General for Investigations James Cottos. Mr. Cottos called me and also sent me an E-mail stating that the OIG received an allegation from Congresswoman Cardiss Collins. Mr. Cottos states that the Congresswoman strongly believes that the Secret Service representatives committed perjury and obstruction of justice when they testified on July 17, 1996. He further states that Independent Counsel (IC) cleared us to proceed with the investigation, just clear names of any USSS personnel we want to interview through them. He finally states that he will send copies of Collins' letter and IC letter to my office later that afternoon.

[CLERK'S NOTE.—The copy of the Case Tracking Form was of very poor quality and will not appear in the hearing record.]

Based on Mr. Cottos' telephone call to me and his E-mail, I opened a case on this matter on October 2, 1996. I listed the complainant as Cardiss Collins and the subjects were the two USSS agents (Libonati and Undercoffer) and additional unknown USSS employees. This form was mailed to Headquarters for processing.

On October 4, 1996, the assigned agents met with Collins' staff and picked up a copy of the testimony. The testimony was reviewed and the case agents stated on October 8, 1996, that Collins' letter and Mr. Cottos' E-mail were misleading and that the agents' testimony were not in question, but the preparation of that testimony—the process of producing the lists. Based on the agents statement we agreed that the subject line of the CTF should be changed to reflect the true nature of the case. On October 9, 1996, I met with Lori Vassar to discuss this case. We discussed Collins' letter I told her that based on the agents review of the testimony that the

agents are not the subjects of this investigation. Lori was somewhat confused and asked me about Stevens' letter. I told her I didn't have Stevens' letter. She provided me a copy and agreed that the agents were not the subjects. On October 9, 1996, I did an updated CTF that reflected the investigation based on Collins and Stevens' letters. The allegation was rewritten to reflect the process not the testimony of the agents. Lastly the subject entry was changed to reflect the Unknown status. This form was sent to Headquarters for entry. (I can't explain why the Investigative Assistant has it dated 10/2/96 in the right hand corner except that she looked at the open date and did not fill in the status change date.)

At the time of the telephone calls (10/18) and meeting (10/21) with USSS, Agents Libonoti and Undercoffer were not considered subjects of the investigation and were not listed as such due to the revised CTF.

RESPONSE TO SECRET SERVICE

Senator SHELBY. Has your office responded to the Secret Service letter notifying you of the concerns with your request for unfettered access in pursuing your investigation?

Mr. CALAHAN. Senator, what we have done in response to Secret Service is, after a period of time of discussions, we have written a letter to Under Secretary Kelly to notify him of the situation, and I believe we did that on February 28. Previous to that we also provided the Under Secretary with our initial letter to the Secret Service back in, I think October 31.

Now subsequent to that there had been no action taken by management. We had been informed that there would not be. So at that point, we concluded that it would serve no useful purpose to continue an investigation and we closed it because of the access issue. Subsequent to this point, we will report it in our semiannual report to Congress.

Senator SHELBY. At this time I would ask that copies of your office's requests for access of October 31, 1996, and the Secret Service's response to your request of November 8 be made part of the record. Without objection.

Ms. LAU. Thank you, sir.

[The information follows:]

MEMORANDUM FOR ELJAY B. BOWRON

From: Valerie Lau, Inspector General.
Subject: Congressional Inquiry.

This memorandum is to request written clarification of the U.S. Secret Service (Service) position regarding Office of Inspector General (OIG) access to individuals, systems and records necessary to conduct our inquiry into matters referred to us by Senator Stevens and Congresswoman Collins. The OIG has been scrupulous in our efforts to consult with the Office of the Independent Counsel prior to initiating any inquiry into these matters. Please be assured we will continue to coordinate our activities with that office.

On October 21, 1996, we met with the Service's Chief Counsel and Assistant Director of Inspection to discuss access to individuals, systems and records for the conduct of this inquiry. At that time OIG Counsel cited the statutory authority which provides the OIG legal basis for this access. We informed them of our intention to directly contact service employees. The Service's Chief Counsel stated that the Service would have to consider this issue as it was Service policy to require OIG to go through the office of Inspection (Inspection) for the conduct of OIG activity in the Service.

On October 23, 1996, the Service's Chief Counsel reiterated the Service's position to the OIG Counsel. He also stated that the Service was not seeking to invoke the exemptions provided under section 8D of the Inspector General Act of 1978, as amended (IG Act), yet remained concerned about the effect of our inquiry on protective services. He further expressed his misgivings that without Inspection as an intermediary, the OIG inquiry would be disruptive and could delve into areas unwarranted by the scope of our review.

The Service's position would require a departure from standard OIG practices. In investigative matters, we do not currently afford any other Treasury bureau with such an accommodation. As we clearly assured your Chief Counsel and Assistant Director for Inspection, it is our intention to conduct this inquiry in a thorough and professional manner looking only at the relevant issues. It is in the best interest of both parties to ensure an unimpeachable investigation. A departure from our standard practices may provide the appearance of a lack of impartiality towards the Service.

As we stated in an earlier meeting with your staff, the Service's policy of using Inspection as a liaison may be a workable accommodation where the OIG's purpose is to conduct an audit or other review. However, as you know, investigative inquiries present a unique need for direct access to the source of evidence, whether they be individuals, systems or records. As OIG Counsel stated in that meeting, the OIG has a duty to protect the identity of any individuals who provide information to the OIG during the course of an investigation unless release of identities is unavoidable. Clearly identifying all individuals to be interviewed and informing the Service's internal affairs office, the Office of Inspection, may potentially have a chilling effect on employees' willingness to cooperate.

The OIG believes the Service's general position regarding OIG inquiries into official matters to be contrary to the intent of the law as set forth in the IG Act and the corresponding Treasury Directive. More specifically, a thorough, credible review of the issues at hand cannot be conducted under the circumstances set forth by the Service.

The legal basis for our position follows.

Statutory Authority

The Inspector General Act Amendments of 1988 amended the Inspector General Act of 1978 (5 U.S.C. App. 3), by inter alia establishing a statutory OIG in the Department of the Treasury. Pub.L. No. 100–504. The OIG is authorized to conduct, supervise and coordinate timely and appropriate internal audits and internal investigations relating to the programs and operations of the Department and all of its bureaus and offices; and to provide leadership and coordinate and recommend policies for activities designed to (A) promote economy, efficiency, and effectiveness in the administration of; (B) prevent and detect fraud, waste and abuse in; and (C) provide a means for keeping the head of the establishment and the Congress fully and currently informed about problems and deficiencies relating to the administration of Treasury programs and operations. *Id.* at § 2; *see also* Treasury Directive (TD) 40–01, para. 1b.

Notice of Investigations

In carrying out its investigative authority, the OIG is not required to give any notice to the head of the bureau or office involved. The IG Act specifically states that if the OIG initiates an investigation, the OIG "may provide the head of the office of such bureau or service * * * with written notice that the [OIG] has initiated such an * * * investigation." IG Act at S8D(d). Further, there are no statutory or regulatory requirements that the OIG provide oral notification to bureau heads. Thus, while the Service may have always viewed notification as a means to insure that investigations run smoothly by making sure that all necessary employees are available and information provided, such a notification is not mandated by the IG Act and is provided by the OIG as a courtesy. In this connection, we note that while TD 40–01 states that "[i]t is the policy of the OIG to notify appropriate Treasury and bureau officials of OIG investigations that are being conducted within their areas of responsibility[.]", it is clear that this policy is discretionary. Moreover, while we have notified you of the existence of the investigation, the Service has requested notice on each interview.

Further, the IG Act provides that,

> neither the head of the establishment nor the officer next in rank below such head shall prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation * * *.

IG Act at § 3(a).

It follows from the above that bureau or agency management or employees have no authority to require the OIG to obtain "permission" to conduct an investigation, to request from the OIG a description of the nature of the investigation, or to restrict access to documents or employees by requiring that Inspection be an intermediary. The salient point is that the OIG has the legal authority to conduct an investigation (1) without providing notice of any type to the Service management chain; (2) without obtaining any type of "permission" to conduct such an investigation; and (3) without providing any description of the nature of the investigation.

In this regard, the IG Act establishes the authority of each Inspector General:

(1) to have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material available to the applicable establishment which relate to programs and operations with respect to which that Inspector General has responsibilities under this Act; [and]

(3) to request such information or assistance as may be necessary for carrying out the duties and responsibilities provided by this Act from any Federal, State, or local governmental agency or unit thereof.

IG Act at § 6(a).

The IG Act also specifies that,

> whenever information or assistance under subsection 6(a)(1) or 6(a)(3) is, in the judgment of an Inspector General, unreasonably refused or not provided, the Inspector General shall report the circumstances to the head of the establishment involved without delay.

IG Act at § 6(b)(2). The IG Act further specifies that such instances should be included in the Inspector General's semiannual report to Congress. IG Act at § 5(a)(5).

Duties of Employees

If a Service employee is involved in any way with an OIG investigation, TD 40–01 is explicit that it is the duty of that employee to cooperate. Specifically, the Directive states:

> d. All Treasury employees must provide to the IG and to that officials duly authorized representatives full, free and unrestricted access to Treasury activities, property, data, correspondence, records, ADP systems, and any other information that the IG determines is necessary to an audit, investigation, or other official inquiry.

TD 40–01, para. 2d.

Further, in underscoring the mandate to cooperate, the Directive continues:

> e. All Treasury employees shall cooperate fully with duly authorized representatives of the OIG by disclosing complete and accurate information pertaining to matters being investigated, audited or reviewed by the OIG. If the employee is the subject of an investigation, the employee will be afforded all rights.

Id. at para. 2e. Accordingly, once an OIG representative appropriately identifies himself or herself, it is incumbent on service employees to cooperate fully.

Conclusion

We have carefully considered the views the Service has expressed regarding this issue. However, given the seriousness of this matter and potential consequences of any misunderstanding between our two organizations, we believe that a special effort is warranted to ensure that we understand the Service's final position.

Therefore, please provide us a written statement explaining your view on how the Service's general policy regarding OIG access and the Service's position in this particular matter does not constitute an unreasonable refusal to provide information or assistance under the provisions § 6(b)(2) of the IG Act. Based on a review of the Service's written position, should we determine that that position constitutes an unreasonable refusal, I am required to notify the Secretary and Congress.

To prevent undue delay in the conduct of our inquiry, please provide us your response by close of business November 8, 1996.

MEMORANDUM FOR VALERIE LAU

From: Eljay B. Bowron, Director, U.S. Secret Service.
Subject: Inspector General Investigation—FBI Background Investigation Files.

This memorandum responds to your October 31, 1996, memorandum (the "OIG memorandum") in which you request a written clarification of the U.S. Secret Service's (the "Secret Service") position regarding an open investigation by the Office of the Inspector General ("OIG") in connection with the FBI Background Investigation Files matter (the "FBI Files Case"). Specifically, you request that the Secret Service articulate how its "general policy regarding OIG access and the Service's position in this particular matter does not constitute an unreasonable refusal to provide information or assistance under the provisions §6(b)(2) of the IG Act." You also ask why that position should not compel you—to report to the Secretary of the Treasury and Congress that the Secret Service has unreasonably refused to permit and assist an OIG investigation concerning the FBI Files Case.

Let me first say that I am disappointed in the way you have chosen to approach this matter. Threats and attempts at intimidation are generally not productive. The Secret Service has not in any way demanded that you get our "permission" to conduct an investigation, nor has the Secret Service in any way unreasonably refused to provide the OIG with information or assistance. What we have attempted to discuss with the OIG has been the manner in which the information and assistance will be provided so that the OIG and the Secret Service can *both* meet their responsibilities. So that it is clear, let me say again that the Secret Service stands ready to cooperate and assist the OIG in any valid investigative effort it is authorized to conduct pursuant to applicable statutory authority and relevant Treasury Directives.

But in acknowledging the statutory authority of the OIG and the Secret Service's willingness to cooperate in investigations undertaken pursuant to that statutory authority, the Service must be cognizant of its own responsibilities, the foremost of which is the protection of the President and his family and the White House Complex. Congress specifically recognized the importance of this protective responsibility in the Inspector General Act of 1978, as amended ("IG Act"), by providing that the OIG may be prohibited from carrying out an investigation which requires access to sensitive information concerning "other matters the disclosure of which would constitute a serious threat to national security or to the protection of any person or property authorized protection by section 3056 of title 18, United States Code, section 202 of title 3, United States Code, or any provision of the Presidential Protection Assistance Act of 1976." *See* 5 U.S.C. App. § 8D(a)(1)(F). As you know, there are also other exemptions covering, for example, access to information relating to ongoing criminal investigations or proceedings or intelligence or counterintelligence matters. *See* 5 U.S.C. App. § 8D(a)(1)(A) and (E).

As you note in your memorandum, the Secret Service is not at this point seeking to invoke any of the above exemptions to the OIG Act. We do not at this point have any firm idea-of just exactly what the OIG plans to do, or to what information you seek access. You state in your memorandum that the OIG can have unrestricted access to any Secret Service employees or documents "without providing notice of any type to the Service management chain," "without obtaining any type of 'permission' to conduct such an investigation," and "without providing any description of the nature of the investigation." This demand for carte blanche OIG access to the White House Complex and Secret Service records is precisely the issue about which the Secret Service has raised what we believe are legitimate concerns. The key point here is a simple one—the Secret Service cannot be in a position to carry out its protective responsibilities or to seek the exemptions in the OIG Act if the Service has no idea what the OIG is doing or what records it is accessing. This is particularly true when many if not most of the employees and records to which the OIG may seek access are on the White House Complex.

The Secret Service is not saying that the OIG cannot be trusted or that the OIG needs Service "permission" to carry out valid investigations. We understand the OIG'S responsibilities—we are asking that you make an effort to understand ours. We have asked that the OIG coordinate with our Office of Inspection because of the above concerns and because, given the secure nature of the White House Complex, it is the most efficient and practical way of conducting any investigation in this matter. (We note that the Office of the Independent Counsel (OIC) has coordinated through the Service for its access to Service employees and documents in connection with its investigation.) Allowing OIG employees carte blanche access to the White House Complex and all the records there would be a total abdication of the Secret Service's unique statutory obligations and protective mission.

I. THE INVESTIGATIVE MANDATE

Turning substantively to the FBI Files Case, the Secret Service remains perplexed as to the actual nature and scope of the investigation the OIG intends to pursue. For that matter, it is fair to observe that this confusion is apparently shared by the Congress, the Treasury Department, the news media, and the public. This confusion regarding the nature and scope of the OIG investigation makes it even more difficult for the Secret Service to ascertain if the protective mission of the agency and other legitimate interests will be jeopardized by your investigation.

A. A Potentially Criminal Investigation With Specific Targets

On October 16, 1996, Senator Charles E. Grassley wrote to Treasury Secretary Rubin requesting that Secret Service Special Agents John Libonati and Jeffrey Undercoffer answer certain questions concerning an August 1, 1993 WAVES list relevant to the FBI Files Case. These career criminal investigators constitute two of the Secret Service Agents serving as agency contacts in connection with the OIC

and Congressional investigations into the FBI Files Case. Senator Grassley's request followed a September 25, 1996 letter to Secretary Rubin from Representative Cardiss Collins regarding a June 1993 Secret Service WAVES list also relevant to the FBI Files Case. This Secret Service list was released by the White House on September 24, 1996. In naming Secret Service Special Agents Libonati and Undercoffer specifically, it appeared that Representative Collins was requesting that the OIG "investigate the preparation of the testimony before this committee by Secret Service officials" on the grounds that that testimony was "erroneous."

Observing that any future assistance by Special Agents Libonati and Undercoffer may be problematical in light of Representative Collins' letter, the Secret Service contacted the OIG on Friday, October 18, 1996. On that date the OIG confirmed that an OIG investigation was being pursued regarding these two Special Agents based upon two referrals: (1) Representative Collins' September 25 letter; and (2) a June 18, 1996 letter from Senator Ted Stevens. This was the first time the Secret Service became aware that the OIG had officially opened any investigation involving the FBI Files Case, or against its agents, based upon Congressman Collins' letter issued three weeks earlier. Senator Stevens' letter, issued some four months earlier, had not been brought to our attention at all.

On Monday, October 21, 1996, at your request, you and other OIG representatives met with Secret Service representatives to discuss this matter. At that meeting, the Secret Service was again advised that there was an active investigation of these two Secret Service special agents and, further, that this matter was potentially a criminal investigation. The OIG would not divulge with any specificity precisely what these agents were alleged to have done wrong or what exactly the OIG would be investigating.

In light of the OIG's reluctance to shed any light on the nature and scope of the investigation, the Secret Service noted then, as it does now, that carte blanche access to the White House Complex (and to, for example, the White House access control system and records, FBI Background Investigation Summaries, and the computer records and personnel of the Secret Service White House Division) without any coordination or knowledge of Secret Service management, remains legally and operationally problematical. Indeed, this agency has taken similar positions in connection with ongoing investigations of the FBI Files Case, Travel Office Case, and Whitewater Case conducted by the OIC. Acknowledging the important protective mission and security concerns of the Secret Service, the OIC has agreed to a reasonable coordination of their investigations through appropriate Secret Service officials. Similarly, what the Secret Service suggested in lieu of unconditional access by the OIG was, in our judgment, a reasonable, coordinating role by our Office of Inspection that would accommodate the OIG's investigative efforts and yet permit organized access to subject matter touching both the White House and the Secret Service protective mission. In other words, an accommodation that would allow *both* the OIG and the Service to carry out their responsibilities.

It appears that the Secret Service's understanding of the OIG investigation as "potentially criminal in nature," and based upon Representative Collins and Senator Stevens' letters, has been separately confirmed by your office, and the Department of Treasury. For example, it was reported in an October 25 Washington Post article that a Treasury spokesman, Howard M. Schloss, confirmed that the OIG's investigation was the result of written requests by Representative Collins and Senator Stevens. Similarly, in two letters both dated October 22, 1996, addressed to Senator Stevens and Senator Richard C. Shelby respectively, Senator Grassley noted that his staff had specifically confirmed with the OIG's congressional liaison that Special Agents Libonati and Undercoffer were under investigation and that the OIG's investigation was "potentially criminal." In an October 26 Washington Post article, it was reported that Senator Grassley's office was told by your office that "a potentially criminal investigation wouldn't be taken off the table" by the OIG. Consequently, it would appear that Congress understood your investigation to be based on Representative Collins' and Senator Stevens' letters and to be "potentially criminal" as well.

B. A "Preliminary Inquiry" With No Targets

Recent OIG representations have made the matter even more confusing. As you know, in a letter to the OIG dated October 24, 1996, Senator Stevens disavowed that his June 18 letter requested an OIG investigation of career Secret Service Agents testifying before Congress. Indeed, Senator Stevens demanded that the OIG "leave my name out of it" and requested that the OIG state in writing that he had not requested such an investigation. In a responding letter dated October 24, 1996, you wrote to Senator Stevens that the "OIG has not represented to either the [Secret] Service or * * * Senator Grassley that any specific agents are the 'subjects'

of a 'potentially criminal' investigation." Instead, you characterized the matter as an "inquiry * * * in its preliminary stages," and wrote that the "OIG has not stated whether any specific [Secret] Service agents are the subjects of an investigation." Further, in an October 25, 1996 Washington Post article, Representative Collins is quoted as saying that she did not want a "criminal investigation," and did not request one from the OIG. And in an October 26, 1996 Washington Post article, it is reported that the OIG disavowed the existence of an investigation "criminal in nature" and noted that the matter was a "preliminary" inquiry.

This summary of reports and correspondence confirms our initial observation that both the nature and scope of the OIG investigation involving the FBI Files Case, and more importantly what precisely the OIG has been requested to investigate by referral from Congressional leaders, is not at all clear. The Secret Service has not been able to ascertain what the OIG believes is the appropriate nature and scope of such an investigation given the various contradictory communications which are reportedly emanating from the OIG. Indeed, it remains unclear whether the investigation is criminal, potentially criminal, administrative, or a preliminary inquiry. We are unsure if the investigation is based upon Senator Stevens' or Representative Collins' letter, or both. It is uncertain if the investigation is targeted at Secret Service testimony before the House Committee or more broadly directed toward the FBI Files Case generally. Finally, the Secret Service does not know precisely what a "preliminary inquiry" constitutes under the IG Act.

II. AUTHORITY AND STATUTORY EXEMPTIONS

The answers to our reasonable inquiries are substantively relevant to the Secret Service on various legal grounds. These include, among others, the impact such an investigation might have on the protective mission of the Secret Service and whether the statutory exemptions to the IG Act should be invoked. Additional concerns relate to the impact of the OIG investigation on the privacy rights of individuals contained in numerous Secret Service systems of records relevant to the FBI Files Case. A third concern relates to the coordination of the OIG investigation in conjunction with the ongoing investigation of the FBI Files Case by the OIC. We turn to each issue specifically.

A. Notice And Nature Of The Investigation

The Secret Service has raised legitimate concerns regarding OIG access to the White House Complex, the White House Complex computerized access system, and the records and personnel of the Secret Service's White House Division to name just a few. All of these areas and systems are restricted in access for obvious reasons relevant to the Secret Service's protective mission. All these areas, systems and records carry some degree of national security implication. The Secret Service is entitled to know of, arrange and coordinate OIG access to these areas, systems, records and personnel. Similar arrangements have been agreed to by the OIC in conjunction with the conduct of their investigation into the FBI Files Case and other investigations. Your demand to be permitted carte blanche access and entry to any premises, systems, records and personnel you choose is operationally impracticable and legally questionable.

The Secret Service also submits that its request to be provided a reasonable idea of the OIG's investigation is both consistent with the IG statute and the applicable Treasury Directive, and comports with equally important statutory obligations of the Secret Service. Your memorandum states that the "Service's position would require a departure from standard OIG practices." You further state that such a "departure * * * may provide the appearance of a lack of impartiality towards the Service." However, this position does not acknowledge that a specific exemption to your statutory authority exists concerning the Secret Service's protective responsibilities and that the Secret Service remains duty bound in a way other Treasury bureaus are not to ascertain the applicability of that exemption. The Secret Service can only do so by possessing a reasonable understanding of the nature and scope of the OIG investigation, and by coordinating any such investigation that seeks access to sensitive protective records.

Your memorandum additionally states that notification of an OIG investigation is not statutorily mandated, and that Treasury policy mandates only "discretionary" notification by an OIG. We disagree on both counts. By virtue of the extant exemption, the IG Act implicitly requires that the OIG provide reasonable notice sufficient to determine if the exemption shall be exercised. Consistent with this interpretation, Treasury Directive 40–01 states:

> It is the policy of the OIG to notify appropriate * * * bureau officials of OIG investigations that are being conducted within their areas of responsibility.

Treasury Directive 40–01. September 21, 1992.

Your interpretation of the IG statute and notification requirements would effectively nullify the protective mission exemption expressly provided by the statute and flies in the face of a straightforward reading of the Directive.

B. Privacy Act Concerns

The FBI Files Case involves records of extraordinary sensitivity. For example, the FBI Background Investigation Summaries maintained by the Secret Service's White House Division contain derogatory information concerning former and present passholders to the White House Complex. The computerized data maintained by the Secret Service Access Control Branch on passholders is similarly sensitive and private. We remain committed to maintaining the confidentiality of such records and releasing such materials to investigators only consistent with law.

Cognizant of the dictates of the Privacy Act of 1974, the Secret Service releases no record contained in the agency's system of records except consistent with law. *See* 5 U.S.C. §552a. As you know, the Privacy Act imposes both civil and criminal liability upon an agency's custodian of records for failing to adhere to the privacy protections of the statute. Accordingly, the custodian of records must be able to determine if the release of protected privacy materials to another individual or entity is legally permissible. To do so, the custodian of records must be provided sufficient information to ascertain if the office requesting the information has a need for the information in order to perform its official duties. The Secret Service has discussed the question of section 552a(b)(1) access with Privacy Act experts at the Department of Justice and Office of Personnel Management, who agree with us that a mere demand for access to Privacy Act materials by an OIG employee does not appear sufficient to permit the custodian of records to release any record without first ascertaining if the record is needed for the performance of the OIG employee's official duties.

We again believe that the Secret Service's simple and reasonable request to coordinate and know what records the OIG is accessing is consistent with these Privacy Act concerns. For this reason alone, the Secret Service submits that unconditional OIG access is not reasonable and is legally problematical.

C. Office Of The Independent Counsel

Finally, the Secret Service submits that an overarching justification for a reasonable understanding of the nature and scope of the OIG investigation, and the coordination of this investigation, lies in the reality that a parallel OIC investigation is being conducted in connection with the FBI Files case. The OIC has expressed its concern to the Service that no activities within the Secret Service should be undertaken which might lead to the loss or tainting of data, evidence or testimony relevant to that investigation. Accordingly, the Secret Service has coordinated OIC Grand Jury subpoenas and investigative demands so as to reasonably ensure compliance with OIC's concerns. Conversely, the OIC has agreed to similar, reasonable coordination efforts requested by the Secret Service to ensure the integrity of our protective mission.

It is both prudent and reasonable to suggest that the Secret Service should not permit access to Secret Service premises, systems, records or witnesses relevant to the OIC's FBI Files Case prior to it being crystal clear that the OIC understands the nature and scope of such access and will permit such access. Any miscommunication in this arena could prove highly problematical.

III. CONCLUSION

In summary, the Secret Service remains unsure exactly what it is that the OIG is investigating and at whose behest. The Service is certainly not aware of any wrongdoing by its employees. Nevertheless, the Secret Service stands ready to cooperate and assist the OIG in any valid investigative effort it is authorized to conduct pursuant to applicable statutory authority and relevant Treasury Directives. In doing so, however, we cannot accede to your demand for carte blanche OIG access to the White House Complex and sensitive Secret Service records. As noted earlier, the Service cannot be in a position to carry out its protective responsibilities or to seek the exemptions in the OIG Act if the Service has no idea what the OIG is doing or what records it is accessing.

We again ask that you try to understand our responsibilities and coordinate any investigation because of the concerns expressed above and because, given the secure

nature of the White House Complex, it is the most efficient and practical way of conducting an investigation in this area.

CONCERNS ABOUT POTENTIAL CRIMINAL INVESTIGATION

Senator SHELBY. Ms. Lau, the next thing—what was your understanding, Ms. Lau, of the concerns being raised by myself as chairman of the committee at that time and other Members of Congress about your investigation into the testimony of the Secret Service? In other words, did you understand that we were concerned that the investigation was potentially criminal in nature? You remember the hearing?

Ms. LAU. I remember the hearing, sir.

Mr. CALAHAN. I think our whole reaction to that—yes, we did understand your concerns, and I think that the situation that our investigators went through the first week of retrospect of looking at this case was to determine on their own that—information that I was not aware of until last Friday—but to determine on their own that it was inappropriate to investigate these two people for perjury.

Senator SHELBY. Was it an attempt by your office to shut these people up because they were telling the truth or testifying?

Ms. LAU. I am sorry, I do not understand your question.

Senator SHELBY. I am asking you, you initiated this investigation on behalf of Congresswoman Cardiss Collins; is that right?

Ms. LAU. The case document indicates that. I believe the regional inspector general for investigations was not aware also of a separate request that we had received from Senator Stevens——

Senator SHELBY. I want to get into that right now. Did you understand that there was concern on behalf of Senator Stevens that his name was being associated with this investigation and he never intended for that to be at all?

Ms. LAU. Yes; that was unfortunate. As I provided to you last December, we did clarify that record with a memo to him stating that was not the case. We have tried very diligently to ensure that any misunderstanding about that has been corrected. In regards to whether or not this was ever a criminal investigation, we have testified previously and provided documents that we coordinated with the office of independent counsel who is conducting a criminal investigation and that they had asked us not to conduct any work that would impede their ongoing criminal investigation.

Senator SHELBY. Did it ever cross either one of your minds that perhaps you were being used politically in this investigation, or could have been used politically?

Mr. CALAHAN. I assured your staff last week when I met with them that we were never aware of any plan to retaliate against these people and that we were not part of any such plan to retaliate against these people. That was true then and it is true now.

Senator SHELBY. Was it not a criminal investigation when you opened the case on October 2 I believe it was?

Mr. CALAHAN. I think we would say that it was too early in investigation——

Senator SHELBY. To determine that?

Mr. CALAHAN. To characterize the case. In fact, we have a letter from our office to Secret Service counsel on October 23 stating just that.

Ms. LAU. That it was too premature to characterize the investigation in any manner.

Senator SHELBY. I want to bring your attention to a couple of questions and responses and ask you to explain them to me. These are some of the responses you gave to questions that were asked for the record in December. Question No. 10——

Ms. LAU. Just a moment, sir.

Senator SHELBY. Sure, take your time. Are you ready now?

Ms. LAU. Yes.

CASE TRACKING FORM

Senator SHELBY. Question No. 10: Was a case tracking form created for Senator Stevens' request of June 18? If so, please provide a copy of that form or outline the information contained in that form.

The answer was this.

No case opening documents were created for either request until after the office of the independent counsel notified the Office of Inspector General on September 27, 1996, that it could proceed on both matters. The matter was forwarded to the appropriate regional office. Because the two requests were related, they were opened on October 2, 1996, as one investigation.

Now I believe you also stated in your testimony before the committee on December 2 the following, page 48 of the transcript. I asked the question as follows, now I would ask you to clarify—do you want to find that?

Ms. LAU. Yes, thank you.

Senator SHELBY. You take your time. That would be page 48.

Ms. LAU. Top, bottom, or——

Senator SHELBY. On the other—are you ready now?

Ms. LAU. I am——

Senator SHELBY. On page 48 of the transcript.

Ms. LAU. Yes.

Senator SHELBY. Can I proceed?

Ms. LAU. Yes.

Senator SHELBY. I ask now—and this is quoting from the record—I would ask you to clarify again for the record, what was the exact date that you decided to have one investigation? In other words, you folded them into one.

And you answered, the actual date would be October 2. Is this true?

Ms. LAU. That was my understanding at the time.

Senator SHELBY. Based on what?

Ms. LAU. Based on what my staff informed me. And I had no reason to think otherwise until last Friday.

Senator SHELBY. But in fact it was not true, was it?

Ms. LAU. The case——

Mr. CALAHAN. It was true within the best of our knowledge I think. We had meetings——

Senator SHELBY. Would you let her answer her own questions? Was that true?

Ms. LAU. It was true to the best of my knowledge at that time.

Senator SHELBY. But factually it was not true, was it?

Ms. LAU. As far as I knew at the time that I testified, it was true.

Senator SHELBY. Go ahead, Mr. Calahan.

Mr. CALAHAN. We had meetings with our counsel and we looked at the two requests, and I think within the knowledge that the inspector general had of those meetings she fully believed that the two requests had been related and that one investigation had been established. She did not know about the intervening week, October 2 through 9. As soon as the investigators had a discussion with counsel and learned of the Stevens' request and they in turn informed her of what they had determined from reading the testimony, that on October 9, in effect, this statement became true in terms of the record.

Ms. LAU. Senator Shelby, you referred to the letter that I provided you yesterday that describes this in great detail. In that letter I indicate that these are administrative documents that are used by the investigators for case management purposes. I as the inspector general would not normally be aware of or review these documents at all.

Senator SHELBY. Who did you talk with in preparing for your testimony on December 2 I believe it was?

Ms. LAU. In preparing for the testimony?

Senator SHELBY. Yes; your staff?

Ms. LAU. Yes; I talked with my staff including my deputy inspector general, my counsel, my assistant inspector general for investigations, the case agent, and the supervisor, as well as the regional inspector general for investigations.

Senator SHELBY. Going back just to the facts. Was one investigation basically opened on October 2, 1996?

Ms. LAU. One investigation was opened, yes.

CONGRESSWOMAN COLLINS' REQUEST

Senator SHELBY. Question 31—going back and you might want to refer to your transcript. How much time did your office spend considering whether or not to proceed with investigating Congresswoman Collins' request?

You answered, consideration of the initiation of an investigation was carefully deliberated and was done in conjunction with consideration of the Senate committee's request. No consideration was made to proceed solely with Congresswoman Collins' request.

But that is not true, is it?

Ms. LAU. It was true based on the information that I had available to me at the time.

Senator SHELBY. You thought it was true.

Ms. LAU. Yes, sir.

Senator SHELBY. But in fact it was not true. You thought it was true based on the information.

Ms. LAU. I believed it was true based on what I was informed of by my staff.

Mr. CALAHAN. Again, in terms of context, if I might just make a point?

Senator SHELBY. Sure, go ahead.

Mr. CALAHAN. On October 9, this was true at all levels of the Inspector General's Office. On October 2, what you were saying is that it was not true in terms of the case tracking document. But again I would like to say that those were preliminary. That was a preliminary document. Those records are intended to be amended. In fact, when the case is closed, a case tracking document is prepared. Since we decided to close the case yesterday, one of these case tracking documents will be prepared showing that the case is closed on April 16. As you can see, these records change throughout the investigation.

So at the period of time that she said this, in terms of the decision to have one case, she was speaking accurately within the scope of her knowledge of the meetings she had had and the discussions she had had with staff.

Senator SHELBY. But assuming you are adding to records, which people are, why do you not show the chronology of things where people would not question whether or not you were trying to change documents to reflect so and on? Whereas if you had something that was dated October 2 and you came back on October 9 and you put an explanation of why you were doing it, you are not trying to change the document to reflect your testimony. But that could be read that way.

ADMINISTRATIVE RECORDKEEPING

Ms. LAU. Your point on recordkeeping is very appropriate. In fact this has pointed out to us that we need to take a very serious look at our administrative recordkeeping, and we will be doing so immediately.

Senator SHELBY. So your testimony, in a sense, was only operable after a certain date. In other words, your testimony that you gave before you said was based on the information that you had at the time; is that correct?

Ms. LAU. I believed it to be correct, and it was based on the information available to me at the time that I testified.

Senator SHELBY. But in fact though, it was not true, was it?

Ms. LAU. It was true to the best of my knowledge.

Senator SHELBY. To yours, from what you knew.

Ms. LAU. And when I found out otherwise, I immediately took steps to inform you through your staff.

LETTER TO SENATOR STEVENS

Senator SHELBY. I would like to also draw your attention to the letter you sent to Senator Stevens that you are familiar with.

Ms. LAU. Yes, sir.

Senator SHELBY. In response to his request that you clarify that he had nothing to do with asking you to investigate the testimony of Secret Service agents. In your response dated October 24, 1996, referring to your own letter, you state, and I will quote—this is the letter to Senator Stevens.

In addition, the letter of Congresswoman Collins requesting an investigation of the testimony before the Committee on Government Reform and Oversight by Service officials to determine how the Service concluded that it was impossible for the Service to provide list with outdated names, she did not request that the office of inspector general investigate specific Service agents.

Do you believe that statement in your letter to still be true?

Ms. LAU. Yes, sir, I do.

Senator SHELBY. You do? Your office has provided an e-mail that reflects that the Congresswoman in fact did desire—did desire—that two specific agents be investigated; is that not true?

Ms. LAU. I was not engaged in any discussion with the Congresswoman or her staff, so I cannot——

E-MAIL MESSAGE

Senator SHELBY. I want to ask the question again. Your office has provided an e-mail that reflects that the Congresswoman in fact did desire that two specific Secret Service agents be investigated. Are you aware of that?

Mr. CALAHAN. You are talking about the e-mail dated October 2?

Senator SHELBY. That is right.

Ms. LAU. Senator Shelby——

Senator SHELBY. He is in the dialog now. Excuse me just a minute. Yes; I am talking about October—I have a copy of it here. So again——

Mr. CALAHAN. I think you could make that interpretation possibly.

Ms. LAU. However, that conversation was made between my counsel, Mrs. Vassar, and staffers from Congresswoman Collins' office. My counsel is here today if you would like to hear from her regarding what she actually heard.

Senator SHELBY. I might want to in a few minutes, but I want to proceed here first, if I could.

Ms. LAU. All right.

Senator SHELBY. You are familiar with, Mr. Calahan, the e-mail that I just referred to. You have got a copy of that?

Mr. CALAHAN. Yes.

Senator SHELBY. So I am going to ask you this question again.

Ms. LAU. Yes, sir.

Senator SHELBY. Your office has provided the e-mail that reflects that the Congresswoman in fact did desire, from what I read of the e-mail and you have a copy of it, that two specific agents be investigated. Is that correct?

Ms. LAU. The e-mail states that. However, I would refer you to the Congresswoman's letter to Secretary Rubin dated September 25 in which in regards to the investigation she specifically asks, that:

> You direct the inspector general of the department to investigate the preparation of the testimony before this committee by Secret Service officials to determine how and why the testimony was developed that led to the conclusion that it was impossible for the Secret Service to provide lists with outdated names.

So relative to the specifics in her request letter, it was regarding the preparation of testimony, not any particular individuals.

Senator SHELBY. Did you not open the investigation doing just that? In other words, what Congresswoman Collins suggested, perjury investigation?

Mr. CALAHAN. This e-mail resulted——

Senator SHELBY. Let her answer the question first and then you can—did you not——

Ms. LAU. I was not party to the discussions that are described in the e-mail. I only am knowledgeable of the letter itself, and the

letter itself indicates that the request was for the substance of the testimony and not either of the two agents.

Senator SHELBY. But basically, did you not open the investigation or it was done doing just that, doing the perjury investigation as Congresswoman Collins suggested? Do you want to comment on that? Go ahead.

Mr. CALAHAN. I would be happy to. As a result of this e-mail, there is no question that the form, the case tracking form was prepared that has the phrase on it, subjects may have perjured themselves.

Senator SHELBY. Absolutely.

Mr. CALAHAN. And that the result of that was that for a period of time, days, these people were in our records as being investigated——

Senator SHELBY. Excuse me just a minute. Are you referring to this document, Treasury OIG document here?

Mr. CALAHAN. Yes; the first case tracking form.

Senator SHELBY. Thank you. Go ahead.

Mr. CALAHAN. The point I would like to make is while technically maybe these two people were subjects of an investigation for a week. In fact, the two people were never investigated. We never interviewed them. We took no steps to investigate these people in any way, and that the result of this, if you want to call it an error in judgment, is that there was no impact against those two people.

Senator SHELBY. Well, there is always an impact. But basically, this was sort of a sham in a sense, was it not? To bring these two veteran Secret Service agents names into something like this after they testified to Congress about something——

Mr. CALAHAN. No; these are documents that normally never see the light of day. These are documents that do not constitute evidentiary information for our investigative files. These are administrative documents in the office that are used for technical management of the caseload because at any one time, I think right now we have 120 open investigations. So there has to be some method of summarizing information for use by the regional inspector general for investigations to keep track of the cases and so forth, and this is the form that is used.

INVESTIGATION INITIATED ON OCTOBER 2

Senator SHELBY. I have some more questions. Were you aware at the time of the December 2, 1996, hearing that your office had initiated an investigation on October 2, 1996?

Ms. LAU. I was aware that an investigation had been initiated on October 2; yes.

Senator SHELBY. Were you aware at the time of the December 2, 1996, hearing before this committee that your office had initiated an investigation on October 2, 1996, based solely on the request of Congresswoman Cardiss Collins?

Ms. LAU. No; I was not.

Senator SHELBY. Were you aware at the time of the December 2, 1996, hearing that your office's investigation of October 2 was opened as a perjury investigation?

Ms. LAU. No; I was not.

Senator SHELBY. Were you aware at the time of the December 2, 1996, hearing that your office's investigation of October 2 identified two Secret Service agents as subjects?

Ms. LAU. No; I had no idea.

Senator SHELBY. When did you first learn that your office had opened an investigation at Congresswoman Collins' request naming two Secret Service agents as subjects of a perjury investigation?

Ms. LAU. April 11, 1997. As I mentioned, I immediately directed my deputy inspector general to notify you via your staff, and he did so that day.

Mr. CALAHAN. Senator, she is being kind. She was greatly annoyed, as was I.

Senator SHELBY. Annoyed at what?

Mr. CALAHAN. Annoyed that this had not come to our attention——

Senator SHELBY. Annoyed that you did not know about it?

Mr. CALAHAN. Yes; much earlier.

Senator SHELBY. Were you ever informed by your staff that statement that "one investigation was initiated on October 2, 1996, based on the request of both Senator Stevens and Congresswoman Collins," in other words, was not true?

Ms. LAU. No; I was not informed that my statement was not true. I believed it to be true——

Senator SHELBY. At the time.

Ms. LAU. Based on the information I had available to me.

Senator SHELBY. According to documents you have provided, Ms. Coleman the regional inspector general for investigations for the eastern region who also testified before this committee on December 2, 1996, was aware of the criminal investigation initiated by your office on October 2, 1996. Did you as the inspector general consult with her before you testified on December 2, 1996?

Ms. LAU. I believe we did have discussions as we were preparing for the hearing, sir.

Senator SHELBY. Did you consult with her after you testified on December 2, 1996?

Ms. LAU. We, in responding to the questions for the record did, perhaps not face to face but were working——

Senator SHELBY. You did review the transcript, did you not?

Ms. LAU. Yes; reviewing the transcript and preparing answers for the record.

Senator SHELBY. Who basically assisted you in preparing you for testimony before this committee on December 2? In other words, did you talk to Mrs. Vassar, Ms. Coleman, Ms. Otero?

Ms. LAU. Cesario.

Senator SHELBY. Otero.

Ms. LAU. She has a hyphenated last name, Otero-Cesario. Mr. Calahan.

Senator SHELBY. Who is seated with you.

Ms. LAU. Who is seated with me. The case agent for the investigation as well as the supervisor for the investigation.

Mr. CALAHAN. If I might just clarify the record.

Senator SHELBY. You go ahead; yes, sir.

Mr. CALAHAN. I was just handed a piece of paper that indicates that the regional inspector general for investigations was actually out of town just before the December 3 hearing. So she was not——

Senator SHELBY. December 2 hearing.

Mr. CALAHAN. I am sorry. So she was not part of a discussion that we had had to prepare.

Senator SHELBY. Who prepared the chronology provided to this committee on December 2 that you gave?

Ms. LAU. I did, sir, based on the information available to me at the time.

Senator SHELBY. You did. Who assisted you in preparing the responses to the committee's additional questions for the record that were submitted after the December 2 hearing?

Ms. LAU. A number of my staff. I do not know precisely who because it was during the holiday season. But I would be happy to——

Senator SHELBY. Would you do that for the record?

Ms. LAU. Provide that for the record; yes.

[The information follows:]

There are inconsistent recollections regarding which individuals assisted in the preparation of the responses and the extent of their participation. As we informed you at the time of the hearing, I referred this matter to the President's Council on Integrity and Efficiency's Integrity Committee for its review. Subsequently, we have been informed that the matter has been referred to the Office of the Independent Counsel for appropriate action. Given that this question focuses on critical issues pertaining to the referred matter, we believe it may be inappropriate to pursue the answer to this question further at this time.

FAILURE TO PROVIDE ORIGINAL CASE TRACKING FORM

Senator SHELBY. Can you please tell the committee today why your office failed to provide a copy of the original case tracking form of October 2, 1996, when the committee requested it in December of last year. Was it an oversight?

Ms. LAU. I do not know why.

Senator SHELBY. Do you, Mr. Calahan?

Mr. CALAHAN. No; except that I think that the intention on the part of staff was to give you the current document. That this was the accurate document that correctly portrayed the status of the case, and that is the reason they gave that to you, I think. Within my knowledge, that is the reason.

Senator SHELBY. The tracking form, at the bottom it has initials. I think it says RSL or something like that. Whose initials are those? There is a date below them. It reads 10/4/96. What does that mean? Why are those initials and that date there? Do you know, Mr. Calahan?

Mr. CALAHAN. I have been informed those initials and that date indicate the time that the form was sent to headquarters, and that those initials are in fact the initials of a clerical employee, so we would rather not state her name.

AMENDED CASE TRACKING FORM

Senator SHELBY. OK. Now if you could look at the amended case tracking form you provided, you have it there, to this committee. It still represents that the investigation was opened on October 2, 1996, does it not?

Mr. CALAHAN. You are referring again to the initials at the bottom right-hand corner of the page?

Senator SHELBY. Yes.

Mr. CALAHAN. I cannot explain that. I have asked that question myself——

Senator SHELBY. In block two it does not show that the status was changed, does it?

Ms. LAU. That would normally appear in block three, the status change day. I have been informed by the regional inspector general that normally that is where such a date would appear.

Senator SHELBY. Why is that now?

Ms. LAU. Typically, the case tracking document is prepared by the case agent. The form can also be prepared either by the regional inspector general for investigations or her assistant regional inspector general for investigations. This form was prepared by the RIGI. Her initials are under block five. She informed me that generally any new documents that are added to the file will have that status change date entered as the date the new document was prepared.

Senator SHELBY. Now if you would just take a minute and look at the initials and date at the bottom of the form, the same initials as on the first document and yet the date is 10/2/96. Do you see that?

Mr. CALAHAN. I absolutely do.

Senator SHELBY. How is that possible?

Mr. CALAHAN. I do not know. I have asked that same question myself. I would just like——

Senator SHELBY. Do you know?

Ms. LAU. I do not know either.

Senator SHELBY. Go ahead. I did not mean to interrupt you.

REFERRAL TO INTEGRITY COMMITTEE

Mr. CALAHAN. We see the discrepancy there, Senator, and in all honesty, we are going to have this situation reviewed. In fact, we made a referral yesterday to the integrity committee of the PCIE regarding this matter.

Senator SHELBY. The person, if you would look at that again, somehow signed off on the second case form created 7 days later before they ever signed on the first. How is that possible? Is that what you are talking about?

Ms. LAU. We do not know.

Senator SHELBY. That is troubling, is it not?

Mr. CALAHAN. It is troubling.

Ms. LAU. It is very troubling. Senator Shelby, Mr. Calahan made reference to the integrity committee of the PCIE. As you may know, the PCIE is the President's Council on Integrity and Efficiency that is chaired by the Director of Management at OMB. This integrity committee is chaired by a senior official of the FBI and I have referred this matter to them for appropriate action.

STANDARD OPERATING PROCEDURE

Senator SHELBY. Let me, if I can proceed. At this point, I would like to draw your attention again to several statements that you made before this committee on December 2. First, Senator Kerry

asked you about how you go about making tough calls, what process you followed, what your standard operating procedure was. I believe that is on page 44 of the transcript, if you will refer to it. Have you found that?

Ms. LAU. Not the precise location, but——

Senator SHELBY. Take your time and find it. I will go back again. Senator Kerry asked you at the committee about how you go about making tough calls, what process you followed, what your standard operating procedure was. That is on page 44 of the transcript. You answered, "I am afraid the buck stops here. I am the one who makes the decision."

Ms. LAU. That is true.

Senator SHELBY. Is that true?

Ms. LAU. Yes; I am responsible for the Office of Inspector General.

Senator SHELBY. So if that is true, did you make the decision to open the investigation on October 2, 1996, of the two Secret Service agents?

Ms. LAU. No; I did not.

Senator SHELBY. Who did?

Ms. LAU. The assistant inspector general for investigations directed the initiation of this particular investigation. It was my decision, however, that——

Senator SHELBY. You concur in the decision?

Ms. LAU. Let me clarify the issue. It was my decision that we would do a review to respond to the 10 questions by Senator Stevens and the question posed by the Congresswoman. Two separate requests relating to the substance of the process of maintaining the White House access list and the data base. I did not direct Mr. Cottos, the assistant inspector general for investigations, to initiate this investigation in this manner.

Senator SHELBY. But you are responsible for it as the inspector general?

Ms. LAU. Yes, I am.

Senator SHELBY. Is that what you meant?

Ms. LAU. I am responsible for the office; yes.

INTIMIDATING FUTURE WITNESSES

Senator SHELBY. Finally, I asked if you ever considered the fact such an investigation could intimidate future witnesses from testifying before Congress as to the truth of what they know; page 48 of the transcript. You responded, I can say from experience that being asked to testify before Congress has a sobering effect on anyone and it reinforces each individual's duty to tell the truth.

Do you believe you have met this duty in testifying before this committee about your office's investigation of these matters?

Ms. LAU. I have made every attempt to be forthcoming. I have been truthful based on the knowledge that I had at the time I testified. When I learned of new information that needed to come to light, I brought it forward immediately. Yes; I believe that I have been very forthright.

Senator SHELBY. Did not the regional inspector general open this investigation?

Ms. LAU. The regional inspector general for investigations opened the investigation at the direction of the assistant inspector general for investigations.

Mr. CALAHAN. Senator——

Senator SHELBY. And she testified to this, did she not, on December 2?

Ms. LAU. I would have to check the transcript.

Senator SHELBY. As far as you know.

Go ahead, Mr. Calahan.

Mr. CALAHAN. I was just going to say that that is the norm in the office is that regional inspectors general open cases and manage cases.

Senator SHELBY. I know we are in an open hearing here. I have also been made aware of another document that I would like to talk with you about later. I would meet with you and ask you to confirm it for its accuracy. But I will not do it in the open hearing.

Ms. LAU. Thank you. We would be happy to meet with you in a closed session.

Senator SHELBY. But since day one, this subcommittee's concern and the concern of many of my colleagues has been that your office improperly opened a potentially criminal investigation targeting two veteran Secret Service agents because of their testimony before Congress.

Your office's recent revelations on this matter confirm what we suspected all along. Yet 7 months later, two public congressional hearings, a series of correspondence with Members of Congress and the Secret Service, and numerous questions for the record and only now today you come forward with information and documents that confirm that your office did in fact open a criminal perjury investigation based solely on the request of Congresswoman Collins naming two specific Secret Service——

Ms. LAU. No, sir; I cannot agree with your statement of the facts.

Senator SHELBY. How do you disagree?

Ms. LAU. It was not just today. Immediately upon learning of this new information I made sure that you, through your staff, were notified. It is not correct——

Senator SHELBY. Was this in the last several weeks?

Ms. LAU. This was last Friday. As soon as we learned of it, we reported it. I could do no better than that.

Senator SHELBY. But is not this what we are talking about here when things like this happen? It is more than a formality or an administrative management thing. We are talking about more than that here today. The lives and the professional reputations of two career law enforcement officers I believe were wrongly impugned when you opened that investigation on October 2. For that, I believe you have done some explaining. But I think you have got some other explaining to do.

You also, I think, have some explaining to do about how your testimony could be allowed to be so ill-informed, and how you could testify so assertedly to what your senior staff certainly knew to be untrue.

Ms. LAU. Senator Shelby, I am not happy about that myself.

Senator SHELBY. What are you going to do about it? Are you going to investigate your staff as to their preparation——

Ms. LAU. As we have mentioned, I yesterday referred this to the integrity committee of the PCIE that is chaired by a senior official of the FBI. I believe an independent review of this matter would be very helpful.

Mr. CALAHAN. There was a Presidential——

EXECUTIVE ORDER

Ms. LAU. Senator, if you would like, there is an Executive order that talks about the process of situations regarding incidents involving inspectors general and their senior staff. This is the process to which I am referring that we have referred this matter for appropriate action.

Senator SHELBY. But would it basically be your policy that people when they come before Congress, whether they work for Treasury, they work for the FBI, they work for the State Department, or wherever, that they come up here and they tell the truth; they are under oath and so forth. And they should not, if they are telling the truth, although it may be not politically good for either party or some people, that they always tell the truth and they not be intimidated by your office or any other inspector general or someone else for telling the truth.

Do you agree with that?

Ms. LAU. I believe no one should be intimidated by anyone when they are asked to tell the truth and do so based on the knowledge that is available to them at the time they are testifying; yes.

Senator SHELBY. Mr. Calahan, do you have anything else?

Mr. CALAHAN. No.

SUBMITTED QUESTIONS

Senator SHELBY. We have additional questions for the Department and we would ask that you respond as quickly as possible.

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

QUESTIONS SUBMITTED BY SENATOR CAMPBELL

FINANCIAL CRIMES ENFORCEMENT NETWORK

FISCAL YEAR 1998 BUDGET REQUEST

Question. In FinCEN's fiscal year 1998 budget request, there is a new initiative for $2 million in support of Presidential Decision Directive 42, and includes 4 FTE. Given that these funds are requested from Crime Bill funds, which are to run out in fiscal year 1999, why were these continuing personnel funds being requested out of the Crime Bill?

Answer. The objective of Presidential Decision Directive 42 is to combat international organized crime. In support of this objective, FinCEN requested $2 million and 4 FTE to: (1) support law enforcement agencies in their actions against money launderers and their illicit funds and assets; (2) increase FinCEN's assistance to cooperative governments; and (3) achieve greater cooperation and coordination with other countries. FinCEN is frequently called upon to provide guidance and assistance in bilateral and multilateral initiatives, as evidenced in its work with the Financial Action Task Force, the Egmont Group, and the Summit of the Americas. (See descriptions of this initiative in later questions.)

These resources were requested as part of FinCEN's direct appropriation for fiscal year 1998 and approved by the Department, as requested. As part of the review process, a decision was made to support the PDD–42 initiative for FinCEN but to

fund it out of the Crime Bill. If FinCEN must support this very important initiative through Crime Bill funds, it would recruit using temporary appointments.

Question. Will FinCEN absorb the costs associated with these 4 FTE into the Salaries and Expenses account once the Crime Bill funds are no longer available?

Answer. If Congress approved the use of Crime Bill "No Year" funding for FinCEN's Presidential Decision Directive 42 initiative, these resources would remain available until expended but would not become part of FinCEN's base operational funding level.

FinCEN operates on a fairly small budget compared to other federal agencies. I'd like to focus on the initiatives you proposed as part of your budget request for fiscal year 1998 and how that will help to combat money laundering.

Question. Can you briefly explain FinCEN's new initiatives for fiscal year 1998?

Answer. The two initiatives requested from Crime Bill funds continue and improve current operations of FinCEN.

Background on First Initiative

As stated above, in order to achieve the President's objective, as defined in Presidential Decision Directive 42, to devote greater effort in combating international organized crime, FinCEN seeks $2.0 million to (1) support law enforcement agencies in their actions against money launderers and their illicit funds and assets; (2) increase its assistance to cooperative governments; and (3) achieve greater cooperation and coordination with other countries.

The Annunzio-Wylie Anti-Money Laundering Act, Public Law 102–550, provided that: "The Secretary of the Treasury and the Attorney General shall jointly establish a team of experts to assist and provide technical assistance to foreign governments and agencies thereof in developing and expanding their capabilities for investigating and prosecuting violations of money laundering and related laws." This mandate is supplemented by Presidential Decision Directive (PDD)–42 which was issued by President Clinton in October 1995 in recognition of the growing dimensions and dangers of global money laundering. The Directive provides the policy framework to focus U.S. efforts at the international level and through cooperation, specifically technical assistance and training.

At the direction of the Secretary of the Treasury, FinCEN headed an interagency group in 1996, as part of the PDD–42 process. Based on that process, FinCEN initiated an in-house prioritization plan whereby regions and specific nations were assessed in order to determine the most efficient allocation of resources. The agencies involved in this process assessed the financial infrastructure and money laundering environment, attempted to calculate the political and legal environment for change, and conducted a technical assistance needs analysis necessary to bring that country(s) into compliance with international anti-money laundering standards.

This assessment included: identifying countries that have or should have a counter-money laundering role; evaluating the ability of that country(s) to create an effective interagency information sharing mechanism; promoting partnerships between the government and domestic and international financial services industry, and recommending regulations to fully implement anti-money laundering laws.

In addition, FinCEN sent its specialists to other countries to assess the technological needs and capabilities of those sectors responsible for overseeing anti-money laundering efforts. FinCEN relied upon and used the expansive expertise of other Treasury bureaus and other agencies including State and Justice, thereby reducing duplication of effort in geographic areas. Importantly, FinCEN developed each of its plans based on the needs of the country. It is critical that any plan be country specific and include money laundering specialists familiar with both that country and the region within which it operates.

The funding requested in fiscal year 1998 will assist the U.S. in achieving greater cooperation and coordination with other countries, and increase efforts within the U.S. law enforcement community on international issues.

Specifically, FinCEN intends to enhance its technological systems, fashioning and using a secure Intranet system to link the United States and other countries on drug trafficking and money laundering matters; developing a multi-lingual database for the exchange of financial intelligence; and exploiting the suspicious activity database for profiling and sharing information to impede criminal activity in the U.S. and world banking systems. Secondly, FinCEN will be able with additional funding to respond in a meaningful and responsible manner to the growing number of requests by other federal agencies as well as foreign governments for support and assistance with financial intelligence unit (FIU) development. The linkage of FIUs worldwide is a key component of FinCEN's anti-money laundering strategy.

Background on Second Initiative

To provide a secure means of information sharing among the Treasury law enforcement bureaus, $1 million is requested to develop an Internet communication system. The need to communicate quickly and securely among the bureaus was identified as a priority. This system will greatly enhance the ability of Treasury's Office of Enforcement to communicate sensitive, case-related intelligence through a highly secure and protected system.

Under this initiative, FinCEN is proposing to create an "extranet" using the existing Internet infrastructure to interconnect Treasury enforcement bureaus. The system would allow for real-time information sharing in the form of e-mail, "chat" and "newsgroups" (to use Internet-speak). Moreover, the system would allow for secure electronic delivery of case reports, electronic requests for support, electronic deliveries of trend and pattern analyses, and computer-based training modules regarding financial crime.

FinCEN's concept is to use state-of-the-art dynamic encryption to protect the flow of data through the Internet. By using an existing Internet infrastructure in conjunction with data encryption, FinCEN significantly reduces the cost of the system while at the same time providing services to Treasury law enforcement globally. Further, this solution also involves user accounts and user passwords thus limiting who gets access to the information, and digital certificate authentication to ensure that a qualified user is operating a government-owned computer in a physically secured environment.

FinCEN's objective is to establish secure links for Treasury law enforcement to access specific information solely related to financial crimes. The entire system will be built around this focus and access to this information will be restricted to those who have a "need-to-know."

FinCEN, given its mandate of combating money laundering, has had to be progressive in what tools it uses to get the job done.

Question. Can you explain the role of technology in FinCEN's work?

Answer. FinCEN uses state of the art technology not only to strengthen its own capabilities, but also to improve the means by which we provide investigative support and analysis to law enforcement. Our compilation of databases provides one of the largest repositories of information available to law enforcement in the country. FinCEN's technology and expertise draws representatives from 17 major federal investigative agencies who are assigned as long term detailees in order to have direct access to our information.

We have developed a sophisticated Intranet network of databases to link financial, law enforcement and commercial information to provide cost-effective and efficient measures ("one stop shopping") for federal, state and local law enforcement officials to prevent and detect financial crime. FinCEN provides this information/access for no charge, however, in return, FinCEN gains additional information to assist in future investigations. This allows FinCEN to link ongoing investigations together to avoid duplication and assemble masses of data to identify strategic trends. In this regard, our Gateway system, which provides state and local law enforcement with direct, on-line access to records filed under the Bank Secrecy Act (BSA), won an award in 1995 from Government Executive magazine for identifying creative ways to enlist the support of other entities.

FinCEN's Artificial Intelligence (AI) Targeting System is yet another illustration of the important role technology plays in the agency's mission. Through the employment of advanced AI technology, the system provides a cost effective and efficient way to locate suspicious activity in the tens of millions of currency transaction reports required by the BSA. For the first time in the 25 year history of the Act, every reported financial transaction can be reviewed and evaluated, allowing FinCEN analysts and federal investigators to link ostensibly disparate banking transactions, producing hundreds of leads for new investigations.

FinCEN has also applied technology in an innovative manner to develop an information system for suspicious activity reporting. The Suspicious Activity Reporting System (SARs) went into effect in April 1996, merging and revolutionizing two older reporting systems that had been in place for over a decade. This single centralized system provides the users of the information—the IRS/CID, U.S. Customs, U.S. Secret Service, the FBI, the U.S. Attorneys, the federal bank regulators, and state law enforcement agencies and banking supervisors, equal access to the data as soon as its processed. This also creates an opportunity for more comprehensive analyses of these reports and results in better information about trends and patterns which is vital to Treasury enforcement in our efforts to address money laundering. As of April 1997, financial institutions filed nearly 65,000 SARs, about 40 percent reporting suspicious money laundering activity.

In addition to employing state of the art technology to our case support efforts, FinCEN also must stay abreast of advances in emerging payment systems. New cyberpayment systems are coming on-line which create vast opportunities for consumers and for criminals. The possibility of virtually untraceable financial dealings, if it came to pass, would create new, perhaps unparalleled problems for law enforcement.

FinCEN is striving to build a knowledge base throughout Treasury enforcement by bringing together government agencies and the private sector to work in cooperation to discuss the implication of these systems as they are being developed. FinCEN has conducted money laundering simulation exercises and has sought out experts from the public and private sectors to support and validate our efforts to understand the industry.

FinCEN employs technology, in the numerous methods outlined above, to give law enforcement an edge against the schemes and wrongdoing of money launderers and others who would try to use it to their advantage.

Question. Specifically, can you outline CD Rom program and its benefits to both FinCEN and the taxpayer for the Subcommittee?

Answer. FinCEN is now entering and will remain in a sustained period of providing training and technical assistance to both domestic and foreign entities. The focus of this training and technical assistance will be on financial intelligence support to combat money laundering and financial crime. This assistance will cover a wide range of subjects running the gamut from how to organize and run a financial intelligence unit to how to analyze suspicious transaction data to how to produce, understand, and use strategic financial intelligence.

FinCEN will be creating training and technical assistance modules in two main formats: (1) traditional instructional modules for presentation in classroom settings; and (2) tutorials for individualized use using CD ROM as the medium.

The following are among the subjects on which we will be aiming to produce both traditional instructional modules and tutorials (on CD ROM):

—"How to create and run an FIU"—including sub-components on such topics as "Computer LAN models," "Suspect Transaction Report databases," "Staffing," "Budgets."
—"FinCEN (FIUs) as tools for investigators"
—"FinCEN (FIUs) as tools for bank regulators"
—"Investigation/Analysis of Electronic Funds Transfers"
—"Investigation/Analysis of BSA data"
—"Domestic and international wire transfer systems"
—"How to do regional/state money laundering threat assessments"
—"Organization and operation of a money laundering case lab"
—"Analysis of Federal Reserve data"
—"Money laundering typologies" plus units on subsets such as "Structuring" and "Use of monetary instruments"
—"Vulnerabilities of cyberpayments systems to money laundering"
—"Tactical financial intelligence analysis"
—"Strategic financial intelligence analysis"
—Modules on specific intelligence techniques such as computer-assisted brainstorming and simulation
—"Money laundering statutes"
—Practical exercises in money laundering intelligence analysis

Question. What is the goal of the cyberpayment study and what do you hope the study will provide us?

Answer. Cyberpayments is the term FinCEN uses to describe new payment mechanisms which use "stored value" or "smart cards" to transfer funds as well as financial transactions which occur via the Internet. FinCEN has been developing expertise in this area to ensure that these systems do not develop in a way that could potentially facilitate financial crimes such as money laundering.

FinCEN intends to use requested funds to complete a portion of its ongoing analysis of this issue. The analysis includes additional domestic and international simulation exercises; securing external expertise to assist in the monitoring of the new systems; and continued outreach with the industry. FinCEN believes this process will contribute significantly to Treasury's on-going dialogue with industry, the Congress and federal agencies on the formulation of appropriate policy responses.

As described above, the study of Cyberpayments is an ongoing process of systems which are in their infancy but continue to mature. The complex and dynamic nature of this issue suggests that FinCEN would not complete all its work in 1998, however this funding under the Crime Bill will significantly further FinCEN's understanding of this evolving issue.

The Financial Intelligence Unit is mentioned in several places in your budget submission.

Question. Can you explain what a Financial Intelligence Unit (FIU) is for the Subcommittee and how it can help FinCEN do its job?

Answer. Inspired in part by FinCEN's success, Financial Intelligence Units (FIUs) have been established in countries throughout the world. These units serve as the central focal point for countries' anti-money laundering efforts. The FIUs are designed to protect the banking community, detect criminal abuse of its financial system, and ensure adherence to its laws against financial crime. FinCEN is one model of an FIU and others exist in such countries as Great Britain, France, Belgium, the Netherlands, Argentina, and Australia. Presently, there are at least 29 such units throughout the world.

We cannot emphasize strongly enough the importance we place on the expansion of these units around the world. The proceeds of crime move quickly across national boundaries into the world's financial systems frequently causing money laundering investigations to spill over into multiple jurisdictions and traverse the web of global financial services. The objective is to close off avenues for money launders by building strong barriers to financial crime in nations around the world and then establishing ways to exchange information about criminal activity among nations. Financial Intelligence Units help accomplish both objectives. They are the embodiment of the network concept offering support to law enforcement and financial community nationally and internationally.

Under the leadership of FinCEN, a core group of FIUs met for the first time in Brussels in 1995 and created an organization known as the Egmont Group. This group serves as an international network, fostering improved communication and interaction among FIUs in such areas as information sharing and training coordination.

The FinCEN representation in the Egmont Group reflects the agency's leadership role in this important coordination effort. FinCEN is heavily involved in Egmont's three important working groups: Legal, Technology, and Training. The Legal working group is tasked with examining the obstacles related to the exchange of information among FIUs. The second working group, Technology, focuses on addressing technical matters regarding communication among FIUs. Lastly, the Training working group is responsible for seeking "tools" to assist in the conduct of financial analysis. FinCEN experts play key leadership roles in each group, working in conjunction with representatives from other FIUs to develop solutions to the numerous issues raised. Progress made in each working group is then reported at future meetings of the whole organization.

The effort to increase communication among FIUs has been furthered by FinCEN's development of a secure web site, permitting access information on FIUs, money laundering trends, financial analysis tools, and technological developments.

BANK SECRECY ACT

One of the laws which FinCEN administers is the Bank Secrecy Act, which is designed to ensure the existence of records that could be used to provide investigators and prosecutors with information on large currency transactions.

Question. What is the current rate of compliance for the Bank Secrecy Act?

Answer. The Bank Secrecy Act contains a number of different requirements, and it is difficult to create a single measure for compliance rates. The most encouraging developments over the past several years have been the cementing of a working partnership between the Treasury and the nation's financial institutions, especially banks, to build a system that truly makes money laundering more difficult. Thus, banks have responded very positively to the new suspicious activity reporting rules and have filed more than 70,000 forms in the first year the rules were in effect. At the same time, there is evidence that the large currency transaction reporting requirements (the "CTR" requirement for transactions in currency in excess of $10,000) are being carefully observed, and the rate of referrals of potential penalty cases to the Treasury from banking regulators has declined. The requirements for the reporting of cross-border transportation of currency in excess of $10,000 (the "CMIR" requirement) is more difficult to track because the requirement is imposed upon travelers themselves, not simply financial institutions.

It is not clear that patterns of compliance in other parts of the financial sector are comparable to those of banks. Recent enforcement activity in the New York Metropolitan Area has indicated serious abuse of the non-bank money transmission industry by agents of narcotics traffickers seeking to send funds to Colombia. The abuses uncovered included, at best, negligence in the application of the BSA requirements to the businesses involved and, at worst, active collusion in criminal enter-

prise. The experience forms a part of the basis for FinCEN's proposal last week of new rules aimed at money transmitters and other non-bank "money services businesses."

It is also important to note that part of FinCEN's strategy has been to move away from simply tracking rates of compliance and to ask, instead, whether the rules involved are themselves an efficient way to deal with the problem of money laundering. Thus, banks have for years complained about being penalized for relatively minor infractions of the currency transaction reporting rules when the data produced had little relevance to the prevention or detection of money laundering. Without necessarily agreeing with the criticism, both Congress, in the Money Laundering Suppression Act, and FinCEN, have taken steps to slim down the reporting process to data that is truly potentially useful to investigators and regulators and to place the greatest emphasis on the building of compliance systems that can impede serious money launderers.

Question. What percentage of that is voluntary and what percentage of that is mandatory compliance?

Answer. A large part of Treasury's long-term strategy has been to convince financial institutions that it is in their own interest to fight money launderers, who in the long run can do as much damage to the financial system—and to particular financial firms—as to government efforts to reduce crime. While the threat of civil and criminal sanctions are essential to keep tension in the compliance system, FinCEN has stepped up efforts, as stated above, to examine historic strategies in an effort to craft rules that financial institutions themselves can apply more efficiently and cost-effectively, as colleagues, rather than potential adversaries, in the fight against money laundering. We believe this policy is meeting with some success and provides a firmer basis for true progress, over the years, than a strategy based solely on the threat of sanctions to gain compliance.

SUPPORT TO STATE AND LOCAL AUTHORITIES

FinCEN has a critical role in providing support to state and local law enforcement agencies and their work in our communities. This is an aspect which I believe is critical when dealing with the enforcement of anti-money laundering laws and dealing effectively within our communities.

Question. In fiscal year 1998, FinCEN is requesting funding for a new initiative called Secure Outreach. Can you briefly describe how this program will help state and local law enforcement to combat money laundering?

Answer. The Secure Outreach Program will not directly support state and local investigations. As described earlier, it will establish a secure Internet link for the Treasury law enforcement bureaus to access information related to financial crimes. However, indirectly the system will support state and local law enforcement in that better communication among federal law enforcement ultimately helps get information to state and local entities. This is particularly relevant as it relates to task force efforts where federal, state and local law enforcement entities work together to combat criminal activity.

Question. Can you detail for the Subcommittee the kind of support FinCEN provides to state and local law enforcement?

Answer. FinCEN provides support to state and local law enforcement in four different components by: (1) providing state and local law enforcement agencies with direct, on-line access to records filed under the Bank Secrecy Act, through a program called Gateway; (2) "alerting" federal and state agencies which have an interest in the same investigation; (3) providing in-depth intelligence reports to supplement Gateway information; and (4) working with Gateway's state coordinators to inform and educate state law enforcement to ways to combat money laundering, including services provided by FinCEN.

Gateway and Alerts

Through a system called Gateway, state and local law enforcement agencies have direct, on-line access to records filed under the Bank Secrecy Act (BSA). BSA records contain information such as large currency transactions, casino transactions, international movements of currency, and foreign bank accounts. This information often provides invaluable assistance for investigators because it is not readily available from any other source.

Using FinCEN-designed software, the Gateway system saves investigative time and money because subscribing agencies can conduct their own research and not rely on the resources of an intermediary agency to obtain BSA records. All states and the District of Columbia are now on-line with the system. The information queries are coordinated by law enforcement coordinators in each state. In fiscal year

1996, Gateway processed 49,466 queries from 45 states. Through April of this year, FinCEN has received 32,625 Gateway queries from 48 states.

During the research and analysis process, Gateway electronically captures the information gathered on incoming inquiries and automatically compares this information to subsequent and prior queries from Gateway customers. About 17,000 subjects have been identified through Gateway. In addition, Gateway users ask FinCEN to match about 600 new subjects each month against its other databases to identify potential parallel investigations. This technique enables FinCEN to assist state and local agencies in coordinating their investigations among themselves, and with federal agencies, through the sharing and exchanging of case data. In other words, FinCEN has the ability to "alert" one agency that another has an interest in their subject. In 1996, 356 "alerts" were given to agencies who had an interest in the same investigative subject. From October 1996 through April 1997, 203 "alerts" were issued by FinCEN.

Intelligence Reports Beyond Gateway

When state and local investigators need information and analysis beyond Gateway resources, they turn to FinCEN for detailed intelligence reports. For such officers, FinCEN is frequently the sole provider of the resources and expertise that federal agencies use so effectively to fight crime. These resources, often too expensive for small agencies, are extremely important as more and more local police departments begin to combat sophisticated white collar crime.

All state and local requests first pass through state coordinators who review the request to determine whether it is an appropriate tasking for FinCEN. This process ensures that FinCEN only works on cases that can benefit from its extensive resources.

Intelligence reports frequently include query results of commercial, law enforcement, and financial databases. When appropriate, analysts construct analytical products such as link charts and time-lines. FinCEN makes and maintains contact with the requester to ensure the intelligence report meets the needs of the requester and can contribute to the successful completion of the investigation.

Education

(See training question below)

Question. What percentage of work conducted by FinCEN is focused toward state and local law enforcement agencies?

Answer: Approximately 20 percent of FinCEN's work is dedicated to supporting state and local law enforcement. (This is primarily accomplished through Gateway and other investigative support efforts as outlined above.)

It should be noted that it is difficult to completely distinguish support to state and local agencies from support to federal agencies. There is a great deal of overlap. Some of FinCEN's work contributes to both federal and local investigations, for instance, under task force efforts. In addition, FinCEN's regulatory work, such as the design and management of the Suspicious Activity Reporting System, benefits both federal and state law enforcement. Again, with the understanding of the difficulty in distinguishing support categories, FinCEN estimates 20 percent of its efforts are devoted to state and local agencies.

Question. What percentage of the work you do with state and local law enforcement is focused on training them on the law and what can FinCEN do for them?

Answer. The majority of resources that FinCEN expends in its efforts with state and local law enforcement are channeled toward direct support of investigations. However, we would estimate that 10–12 percent of our effort directed toward supporting state and local agencies involves training, of which perhaps one-half of that addresses legal issues.

FinCEN is currently considering an initiative (to begin in the fall of 1997) which would involve a week-long course covering in-depth applications in financial investigations. This would be offered, over the course of one year, to approximately 250 of Gateway's State Coordinators and their personnel (at FinCEN's expense). While we are not prepared to cover state statutes, some basic legal training could be incorporated in this course.

As part of its existing training efforts, FinCEN focuses on describing the benefits states have achieved from developing and implementing a strategy for attacking criminal proceeds. Such a strategy has several different elements, including legislation.

There are currently 30 states with legislation criminalizing money laundering. Unfortunately, the provisions of these laws vary considerably which can substantially affect their effectiveness. FinCEN has been working closely with the National

Alliance for Model State Drug Laws and the National Association of Attorneys General to inform the states of the availability of model legislation.

CURRENT ISSUES

With technology changing so fast these days, it is no surprise that it is difficult to keep up. Unfortunately, however, the criminal element seems to have no problem in taking what ever new technology that comes along and finding a way to make it useful to them in their crimes.

Question. Can you comment on the latest trends in money laundering?

Answer. Working with our partners in the law enforcement, regulatory and financial communities, we have learned that the tools of the money launderer can range from complex financial transactions, carried out through webs of wire transfers and networks of shell companies, to old-fashioned, if increasingly inventive, currency smuggling. We also know that as soon as law enforcement learns the intricacies of a new money laundering technique and takes action to disrupt the activity, the launderers replace the scheme with yet another, more sophisticated method.

Most importantly, we see that the proceeds of crime generated in the United States move quickly across national boundaries and into the world's financial systems. The money laundering policy issues and the federal law enforcement cases involving international crime that FinCEN supports frequently spill over into multiple national jurisdictions and the web of global financial services.

The Financial Action Task Force (FATF), a global leader in promoting anti-money laundering efforts, held its 1996–97 typologies earlier this year and released a public report on existing money laundering trends around the world. FinCEN chaired the 1996–97 FATF experts group on typologies which developed the report.

A general observation drawn from this exercise, and which substantiates FinCEN's experience described earlier, is that given the global nature of the money laundering phenomenon, geographic borders have become increasingly irrelevant. Launderers tend to move their activity to jurisdictions where there are few or weak anti-money laundering countermeasures. Another major finding is that traditional money laundering techniques (such as smurfing, wire transfers, and bank drafts) continue as prominent laundering methods. Currency smuggling, also a traditional method, continues to increase due to effective counter-money laundering measures enforced in banks and other financial institutions.

Drug trafficking remains the largest single generator of illegal proceeds; however, non-drug related crime (such as various types of fraud, smuggling and organized crime offenses) is increasingly significant. There is also the continuing shift from banking institutions to non-bank financial institutions.

Because of this shift, Treasury recently announced new proposed regulations which apply to a segment of the non-banks, called money services businesses (MSB), such as money transmitters and check cashers. (See attached fact sheets.) The proposed rules require registration of MSBs; reporting of suspicious transactions by MSBs; and a lower threshold of currency transaction reporting for money transmitters. It should be stressed that the overwhelming majority of these businesses are engaged in legitimate and valuable commercial activity. In fact, the industry has been extremely supportive of FinCEN's work. The new rules are only intended to make life difficult for the money launderers and their accomplices.

Question. How will the increasing usage of electronic financial transactions, or cyberpayments, impact the work of FinCEN?

[With clarification from the Committee, we understand this question to ask how will the increasing use of wire transfers (also called funds transfers) impact the work of FinCEN. Electronic wire transfers move funds between financial institutions. This question does not relate to cyberpayments as defined as "stored value" or "smart cards" to transfer funds or financial transactions which occur via the Internet.]

Answer: Electronic wire transfer systems move funds between financial institutions and handle a daily volume in excess of 500,000 transactions, moving more than $2 trillion around the world each day. Wire transfers offer criminal organizations an easy, efficient and secure method of transferring huge sums of money over a very short period of time. Because wire transfer messages are often sent through several banks and wire transfer systems, money launderers have been able to easily confuse the money trail, making it difficult for law enforcement to trace the criminal proceeds. However, it should be noted that while there has been a steady increase in funds transfers between financial institutions, the use of these systems are not increasing in a manner greater than anticipated.

Because of their use by money launderers, FinCEN issued (under the Bank Secrecy Act) two new regulations last year to prevent and detect laundering as money

is moved around the country and the world. The first rule, issued jointly by Treasury and the Federal Reserve Board, requires banks and non-bank financial institutions to collect and retain information about transmittals of funds in the amount of $3,000 or more; it also requires the verification of the identity of non-account holders that are parties to such transmittals of funds. The second rule (known as the travel rule), issued by Treasury alone, requires each financial institution that participates in a wire transfer to pass along certain information about the transfer to any other financial institution that participates in the transmittal.

The wire transfer rules are designed to help law enforcement agencies detect and investigate money laundering and other financial crimes by preserving an information trail about persons sending and receiving funds through wire transfer systems. While wire transfers do pose a challenge to law enforcement agencies investigating money laundering, the regulations significantly assist investigators by preserving more information identifying parties to such transactions than was previously available.

SUPPORT TO FEDERAL AGENCIES

Most of FinCEN's users are state and local law enforcement but there are a number of federal agencies that use FinCEN's expertise.

Question. Can you briefly describe for the Subcommittee who FinCEN's federal users are and what information are you able to provide them?

Answer. First, it should be noted that FinCEN's primary law enforcement customers are federal agencies. The Internal Revenue Service and the Bureau of Alcohol, Tobacco and Firearms were FinCEN's top two federal customers. The U.S. Customs Service's Office of Internal Affairs and the Treasury Inspector General were also significantly assisted by FinCEN.

Additionally, FinCEN continues to see a demand for services from all segments of law enforcement around the country. Department of Justice agencies, such as the FBI, USMS, and DEA are significant users of FinCEN, as are the Department of Defense users such as Naval Criminal Investigative Services, Defense Criminal Investigative Service, AFOSI, and U.S. Army Criminal Investigative Division.

FinCEN's original and primary mission is centered on law enforcement. In addition to housing key databases, FinCEN assists investigators by obtaining unique and complex data and performing research and analysis that plays a vital part in successful investigations. FinCEN assistance has proved crucial in investigations of criminal activity ranging from money laundering to national security issues.

FinCEN's work is concentrated on combining information reported under the BSA with other government and public information. This information is then disclosed to FinCEN's customers in the law enforcement community as intelligence reports. These reports help them build investigations and plan new strategies to combat money laundering.

FinCEN's Information Sources

FinCEN's information sources fall into three broad categories: Financial, Law Enforcement, and Commercial Databases.

Financial Database.—The financial database consists of reports that are required to be filed under the BSA and include the Currency Transaction Report (CTR); Suspicious Activity Report (SAR), Report of International Transportation of Currency or Monetary Instruments (CMIR); Currency Transaction Report by Casinos (CTRC); and Report of Foreign Bank and Financial Accounts (FBAR).

Law Enforcement Databases.—Through a Memorandum of Understanding (MOU), a written agreement outlining the details of database access, dissemination authority, etc., FinCEN is able to access individual law enforcement databases maintained by agencies such as the Treasury Bureaus, Drug Enforcement Administration, Department of Defense, and the Postal Inspection Service. FinCEN currently maintains MOUs with a wide range of federal and regulatory agencies, all 50 states and the District of Columbia.

Commercial Databases.—FinCEN procures access to a variety of commercially maintained databases which are valuable in locating individuals, determining asset ownership and establishing links between individuals, businesses and assets. These commercial sources of information, coupled with the data from the law enforcement and financial databases, form the foundation of information sources for FinCEN analyses.

Finally, the FinCEN Database serves as the central point upon which FinCEN coordinates information on all investigations it supports, thus enhancing FinCEN's efforts to improve the information sharing network.

Currently, FinCEN has five ways of supporting federal law enforcement investigations. The following is a brief description of each of those methods.

Direct Case Support.—Since its creation in 1990, FinCEN has provided almost 38,000 analytical case reports involving over 100,000 subjects to federal, state, and local law enforcement agencies. Last year alone, FinCEN worked with more than 150 different agencies, answering more than 7,500 requests for investigative information. Using advanced technology and countless data sources, FinCEN links together various aspects of a case, finding the missing pieces to the criminal puzzle.

Platform Access.—FinCEN support is also provided to law enforcement agencies through a "Platform" which is a way to permit others to use FinCEN's resources directly to carry out their work. FinCEN pioneered the Platform in 1994, offering training, office space, and database access to employees of other federal agencies who needed to conduct research on cases under investigation by those agencies. Platform personnel are on the payroll of other federal agencies and come to FinCEN on a part-time basis to work only on cases being conducted by their own offices or agencies. These individuals know the needs of their organization and can support that need directly through database access. FinCEN is currently assisting 43 Platform participants from 21 agencies. About 10 percent of FinCEN's case work last year and 20 percent so far this year was carried out through these Platforms.

Artificial Intelligence Targeting System.—FinCEN's Artificial Intelligence (AI) system is yet another avenue available to law enforcement in the fight against money laundering. This system provides a cost effective and efficient way to locate suspicious activity in the tens of millions of currency transaction reports required by the Bank Secrecy Act.

For the first time in the 25 year history of the Act, every reported financial transaction can be reviewed and evaluated. This unique blend of state of the art technology within a user friendly environment provides intelligence analysts and federal investigators with the ability to link ostensibly disparate banking transactions, producing hundreds of leads for new investigations.

Support to ICG.—FinCEN also is supporting the Interagency Coordination Group (ICG) whose purpose is to share money laundering intelligence in order to promote multi-agency money laundering investigations. The group includes the Internal Revenue Service, the U.S. Customs Service, the Drug Enforcement Administration, the Federal Bureau of Investigation, and the U.S. Postal Service. FinCEN and the Department of Justice's Criminal Division serve as advisors to the group. FinCEN provides a central site for the group's operations and the support of four personnel who provide research and analysis of the intelligence information generated by the group. This intelligence, coordinated in FinCEN's case lab, is then disseminated to case agents currently working major money laundering investigations in the field.

Question. Do these federal agencies work with state and local law enforcement agencies using the information which FinCEN provides?

Answer. A number of our state and local requests involve multi-jurisdictional task forces comprised of federal, state, and local investigators. In other cases, requests come from federal agencies who are involved in similar task forces. We do support the HIDTA (High Intensity Drug Trafficking Areas) and OCEDTF (Organized Crime Drug Trafficking Task Force) programs with case support, field support, and make available to them a platform at FinCEN from which they can do their own work.

Question. How does your work with federal agencies differ from the work with state and local law enforcement?

Answer. FinCEN's databases and its analysts are readily available to assist law enforcement agents in solving cases at the federal, and state and local levels of government. The primary difference between FinCEN's work with federal agencies and the services it provides to its state and local customers lies in the process by which they access FinCEN's resources. At the federal level, requests for these services comes directly from law enforcement agents within each federal agency (see pages 13–15, Support to Federal Agencies for a full description of how federal agencies can use FinCEN's resources). State and local requests, on the other hand, are channeled to FinCEN through the Gateway program. As mentioned in a previous answer, this system of state law enforcement coordinators was established to help ensure an efficient response mechanism for the much broader state and local network of law enforcement entities (see page 8, Support to State and Local Law Enforcement for a complete description of Gateway).

WORKING WITHIN THE INTERNATIONAL ARENA

Clearly, much of the task FinCEN must undertake occurs outside our borders, particularly with the advent of electronic information and electronic financial transactions. Therefore, FinCEN does a substantial amount of its work with other nations.

Question. Would you outline FinCEN's most recent work in the international arena?

Answer. We are meeting the challenges created by a borderless marketplace for money launderers by developing and fostering bilateral and multilateral initiatives aimed at whittling down the number of countries who choose not to play by international standards. FinCEN provides international leadership in developing and fostering global anti-money laundering strategies, policies, and programs and reaches out to assist countries in implementing those standards. FinCEN has received worldwide recognition for its capabilities and accomplishments and is frequently called upon to provide guidance and assistance in multilateral fora, as well as in individual government-to-government exchanges.

Our principal efforts in the international arena include:

Financial Action Task Force (FATF).—In just the past three years, FinCEN has been instrumental in revitalizing the world's premier anti-money laundering organization, the Financial Action Task Force. Created at the G–7 Economic Summit in 1989, the FATF is comprised of 26 countries. It is dedicated to promoting the development of effective anti-money laundering controls and enhanced cooperation in counter-money laundering efforts among its membership and around the globe. FinCEN serves as the lead agency for coordinating the U.S. role within the FATF. It heads up the U.S. delegation which consists of Treasury, State and Justice, and FinCEN's Director serves as one of six members of the FATF Steering Group.

The U.S. held the Presidency of the FATF from July 1995 to July 1996. During the U.S. presidency, FinCEN spearheaded the successful effort to strengthen the Task Force's 40 recommendations, the standards for countries to follow in combating the laundering of criminal proceeds. This was the first update to the recommendations since they were issued in 1990.

FATF also mandates "mutual evaluations"—regular, on-site peer-group examinations of each member nation's progress in implementing anti-money laundering controls. A mutual evaluation of the United States was conducted in December 1996. The positive evaluation that the United States received lends international credibility to U.S. anti-money laundering programs as well as further establishes U.S. leadership in countering money laundering worldwide.

FinCEN has given new focus to FATF's Annual Typologies Exercise, this year persuading FATF to issue a public version of its report. The annual typologies meeting brings together law enforcement representatives from member countries to discuss current money laundering trends and patterns. Disseminating public versions of these reports to financial institutions in the private sector provides them with valuable feedback about the usefulness of compliance programs to law enforcement. This year's report contains an annex which discusses the money laundering implications of emerging payment systems, such as electronic money (e-money) and Internet transactions.

Investigators worldwide will also benefit from an important new tool allowing them to trace the source of illegal money that flows around the world because of a FATF initiative FinCEN helped negotiate with the Society for Worldwide Interbank Financial Telecommunication (SWIFT). In November, the SWIFT will modify its software which will allow electronic messages to include the sender's bank account number, critical information in a financial investigation.

A primary goal of the U.S. has been to expand FATF's anti-money laundering standards to key regions around the world. To this end, it has encouraged the development of sister organizations such as the Caribbean Financial Task Force (CFATF) and the Asia/Pacific Group on Money Laundering.

FinCEN is also co-hosting with CFATF, a Casino and Gaming Conference which serves as an example of how FinCEN is sharing its domestic experiences abroad. The Conference will explore the money laundering vulnerabilities of the growing gaming industry in the Caribbean and discuss possible regulatory requirements for the region.

FinCEN played a role in the success of a conference held in October 1996 in South Africa. The conference resulted in 13 countries from the region agreeing to seek the establishment of a Southern and Eastern African Financial Action Task Force. FinCEN is especially encouraged by this first but important step towards bringing a key region of the world under the FATF umbrella.

With strong encouragement from the United States, the current President of the FATF has been developing contacts with the Multilateral Development Banks, such as Asian Development Bank and the Inter-American Development Bank.

Financial Intelligence Units and the Egmont.—We are witnessing a new worldwide phenomenon—the establishment of financial intelligence units (FIUs) in countries through out the globe. These units serve as the central focal point for countries' anti-money laundering efforts. Just five years ago, there were less than a

handful of FIUs in the world. Today, there are at least 29 such units. The momentum for this development came about as a result of several years of an intensive anti-money laundering effort by FinCEN and its counterparts in Europe and Australia.

Under the leadership of FinCEN, a core group of FIUs met for the first time in Brussels in 1995 and created an organization known as the Egmont Group. This group serves as an international network, fostering improved communication and interaction among FIUs in such areas as information sharing and training coordination.

Although differing in size, structure and individual responsibilities, Egmont members share a common purpose—cooperation in the fight against money laundering through information exchange and the sharing of ideas. The Egmont Group has since met three times, most recently in November 1996 in Rome where participants agreed on the definition of an FIU. This definition will likely facilitate the establishment of new units by setting minimum standards.

The effort to increase communication among FIUs has been furthered by FinCEN's development of a secure web site that was first demonstrated in Rome. This web site will permit members of the Egmont Group to access information on FIUs, money laundering trends, financial analysis tools, and technological developments. The web site will not be accessible to the public therefore, members will be able to share this information in a protected environment. We cannot emphasize strongly enough the importance we place on the expansion of financial intelligence units around the world. It is the embodiment of the network concept offering support to law enforcement nationally and internationally.

International Criminal Police Organization (Interpol).—Interpol is an international organization established to facilitate information sharing and coordination among nations worldwide on criminal investigative matters. Treasury's Under Secretary for Enforcement serves on Interpol's Executive Committee. At the 64th session of Interpol's General Assembly held in October 1995, a resolution was unanimously adopted establishing the first major anti-money laundering declaration in the organization's history. Additional progress against money laundering is made through annual financial analysis conferences which FinCEN co-sponsors with Interpol's FOPAC unit. At the last conference, held in San Francisco in 1996, more than 30 countries participated.

As the countries of the Former Soviet Union and Eastern European struggle to put into place effective regulatory and legal infrastructures, ample opportunities for criminals to launder their money exist. The Secretary General of Interpol called upon FinCEN to lead an examination of the economic environment and factors that impact money laundering in 15 of 26 of these countries. Since July 1995, 13 of the 15 reports have been drafted under "Project Eastwash."

FinCEN and FOPAC's combined efforts have generated the political will in several of these countries to begin establishing anti-money laundering regimes. For example, the Latvian government used our Eastwash report as the impetus to push forward with efforts to develop new anti-money laundering measures. Through attendance at the annual financial analysis conferences, Slovakia and Czech Republic moved to establish FIUs, and most recently, several Latin American countries (Argentina, Colombia, Uruguay, and Bolivia) used these discussions to initiate similar efforts.

Summit of the Americas (SOA).—In December 1995, Treasury Secretary Rubin chaired a conference in Buenos Aires, Argentina, that was attended by Ministers from 29 of the 34 SOA nations. FinCEN led the year long effort to lay the groundwork for the Buenos Aires Conference by coordinating the development of a Communiqué—a document which commits each of the participating countries to take a series of steps to combat money laundering.

FinCEN, together with Treasury and other agencies, is playing a leading follow-up role. This effort includes offering coordinated training and assistance to SOA participating countries. The process is beginning to take effect. At least 25 of the 34 Summit countries have taken positive steps toward implementing the Communiqué by passing, amending or drafting legislation, or issuing related regulations.

United Nations.—FinCEN has provided leadership in the anti-money laundering efforts of the United Nations Commission on Narcotic Drugs (UNCND), which is the central policy making body within the UN for dealing with all drug-related matters. FinCEN worked in support of a U.S.-sponsored anti-money laundering resolution which was adopted by the UNCND in March 1995. This resolution calls for UN member states to encourage the reporting of suspicious or unusual transactions, establish financial intelligence units to collect and analyze this data, and recommends formation of financial investigative task forces and anti-money laundering investigative training programs.

In April 1996, the UNCND adopted a second U.S.-sponsored anti-money laundering resolution that encourages UN member states to require bank customer identification procedures and to broaden other anti-money laundering measures such as confiscation and asset forfeiture provisions, and stresses that the 40 Recommendations of the FATF are the international anti-money laundering standard.

Asia Pacific Economic Cooperation (APEC).—FinCEN played a critical role in ensuring that the APEC Finance Ministers recognize the threat money laundering poses to the economies in the region and the importance of international standards which have been established by the FATF to combat the problem. At the APEC Finance Ministers Meeting held April 5–6, 1997, a Joint Ministerial Statement was issued which recognized money laundering as a priority concern in the region. Ministers welcomed the establishment of the Asia/Pacific Group on Money Laundering, encouraged a determined global effort against money laundering, and requested that relevant international organizations integrate anti-money laundering activities into their operations to strengthen the integrity of financial systems. This most recent reference to money laundering in the APEC Ministerial Statements follows language in two previous documents. All were the result of FinCEN efforts.

The role that the United States plays, both by itself and as part of these multilateral efforts, is critical in setting effective standards in the fight against money laundering. FinCEN is at the forefront of this world wide movement. We have found that it is important to share our expertise—as well as our mistakes—with our foreign counterparts. FinCEN representatives have visited five continents and more than 50 countries in the past three years, urging these countries to take the money laundering threat seriously and adopt effective anti-money laundering measures.

Question. What percentage of FinCEN's work is dedicated to helping other nations combat money laundering?

Answer. Approximately 25 percent of FinCEN's work is directed toward strengthening its network by developing partnerships with our international counterparts.

Question. What types of services can you provide other nations in the way of helping them improve their anti-laundering capabilities?

Answer. FinCEN provides international leadership in developing and fostering global anti-money laundering strategies, policies, and programs, and reaches out to assist countries in implementing the standards on money laundering. FinCEN has developed worldwide recognition for its capabilities and accomplishments and is frequently called upon to provide guidance and assistance in multilateral fora, as well as in individual government-to-government exchanges.

FinCEN's international training and technical assistance program has two main components: 1) instruction provided to a vast array of government officials, financial regulators and others on the subject of money laundering and FinCEN's mission and operation; and 2) training on financial intelligence units, modeled after FinCEN and the other central disclosure agencies throughout the world.

FinCEN has provided a wide range of guidance and assistance to a number of countries around the world in encouraging the creation of FIUs. Countries are at different stages of evolution in their ability and willingness to implement effective counter money laundering programs. Therefore, our efforts and approach are tailored to the individual needs of recipient countries. In general, our involvement encompasses: 1) providing assessments of money laundering laws, regulations and procedures; 2) recommending ways in which to develop a partnership between government and financial institutions to prevent money laundering; 3) advising foreign government officials on how to establish advanced systems for detecting, preventing and prosecuting financial crimes; and 4) offering specialized training and technical assistance in computer systems architecture and operation.

Question. Are services provided for free, or do these nations pay for services of FinCEN?

Answer. Nations do not pay a fee for the services provided by FinCEN.

Question. What incentive does our government give other nations for being proactive in their efforts to combat money laundering?

Answer. For those countries that are proactive in their efforts to combat money laundering, FinCEN and other US agencies provide support, encouragement and guidance in how to create an effective anti-money laundering regime. That support includes providing a wide range of technical assistance and training to countries geared towards helping them model an effective program to meet their respective country needs. For its part, FinCEN focuses much of its training and technical assistance in the form of supporting the establishment of financial intelligence units (FIUs) around the globe. FinCEN has provided guidance and/or technical assistance to Argentina, Czech Republic, Ecuador, Hungary Mexico, Panama, Poland and Russia among others in the creation and development of their FIUs.

Additionally, there are consequences for countries that do not meet international standards on money laundering. The Foreign Assistance Act of 1961, as amended requires the USG to certify that certain countries are cooperating in the fight against drug money laundering. If a country is not certified, most foreign assistance is cut off and the United States is required to vote against multilateral development bank lending to that country. Also, the Financial Action Task Force (FATF) can urge countries to give special attention to business relations and transactions with persons, including companies and financial institutions, from those countries that do not or insufficiently apply the FATF forty Recommendations.

Question. What is the average number of consultations you provide to foreign governments in a year regarding money laundering?

Answer. Since the fall of 1995, when our efforts to create an international network of financial disclosure units intensified, FinCEN has had over 100 consultations in the United States with foreign government officials. In addition, during that same time, FinCEN representatives have traveled for consultations to more than 60 countries urging those governments to adopt effective anti-money laundering measures.

TRIBAL GAMING

Question. How does FinCEN regulate casinos to prevent and detect money laundering and has tribal gaming been brought under the same regulatory controls?

Answer. Since 1985, when state-licensed casinos were first subjected to the safeguards and controls of the Bank Secrecy Act (BSA), the size and availability of casino gaming in the U.S. has increased dramatically. At that time, the new rules applied only to casinos in Puerto Rico and Atlantic City, New Jersey. Under an agreement between the state of Nevada and the Department of the Treasury, that state's casinos were subject to a separate regulatory regime. Today, commercial casino gaming is authorized in 15 states and accounts for nearly half a trillion dollars in wagered funds.

Concurrently, there has been a significant expansion in the availability of bank-like financial services provided to casino patrons, including the establishment of deposit and credit accounts, money transfers, currency exchange, and check cashing services. Given the large volume of activity occurring at casinos, and the cash-intensive nature of transactions, this industry is vulnerable to abuse by money launderers, tax evaders and other financial criminals.

FinCEN has worked closely with the industry to ensure that effective anti-money laundering programs exist, including working with the new American Gaming Association and state casino associations and regulators from Nevada, New Jersey, Puerto Rico, Mississippi, and other jurisdictions. Over the past two years, representatives from FinCEN and the Nevada Gaming Control Board have worked closely to ensure that Nevada casinos are subject to regulatory requirements that not only meet but, in most cases, exceed current federal standards. This effort culminated in the recent enactment of state legislation making structuring of currency transactions at casinos a felony and significantly increasing criminal and civil penalties against casinos found in violation of state regulatory requirements.

Moreover, early this year, Nevada adopted an entire overhaul of its anti-money laundering regulatory requirements and internal controls. These new changes took effect on May 1, 1997. In addition, in an important step which will take effect by October 1, 1997, Nevada will be the first state to require its casinos to report suspicious activity to the federal government. FinCEN will examine the experience of Nevada casinos with this new requirement before imposing a similar requirement on other state and tribal casinos.

Tribal Casinos.—In addition to the growth in state-licensed gaming, in the six years since Indian tribal casinos were first established, this segment of the industry has spread to nearly half of the states and accounted for over $50 billion in funds. In order to meet the Congress' direction in the Money Laundering Suppression Act to end the disparate regulatory treatment of tribal casinos, and in recognition of the unanticipated growth of this industry, FinCEN began the extensive process of meeting with representatives of tribal governments, casino operators, and others associated with this industry. We conferred with The National Indian Gaming Commission, National Congress of American Indians and, most especially, the National Indian Gaming Association.

FinCEN representatives have spoken in detail about the effects of this change on the tribal casino industry at a conference, met with travel governments, and conducted on-site visits at tribal casinos of varying sizes to assess the operational effect of new regulatory requirements on these developing businesses. In April 1996, FinCEN sponsored a BSA conference designed specifically to address compliance

with the new regulations. While tribal representatives often express concern over the potential threat to their tribal sovereignty, FinCEN has been cited favorably for its willingness to work with the tribal community through the regulatory process.

Moreover, our regulations were designed to avoid a contentious issue between tribal and state governments, by applying these regulations uniformly regardless of whether state-tribal compacts were in force. This rule received no critical comments and on August 1, 1996, it went into effect largely as proposed.

Our experience in dealing with casinos has taught us that non-traditional financial services providers require special attention and also a creative, sometimes flexible, regulatory approach. That experience should serve us well as we deal with the challenge of upgrading BSA compliance and anti-money laundering controls in what we've come to call "money services businesses."

BASE FUNDING

There is funding outlined in the budget request which indicated that the base is fully funded.

Question. Is your base fully funded?

Answer. Funds requested are expected to enable FinCEN to maintain its current operating level. It must be noted, however, that FinCEN has received support from Treasury's Asset Forfeiture Fund to fully fund the costs of acquiring access to commercial databases and supporting the Gateway program which gives States on-line access to BSA and other data that can be used to support their investigations. If these funds were no longer available, full funding for these initiatives could not be absorbed into FinCEN's base. This would adversely affect FinCEN's ability to provide support to law enforcement.

Question. How many positions (FTE) are unfilled?

Answer. As of May 1997, FinCEN has 14 FTE positions unfilled.

Question. What would it take to fill those positions?

Answer. FinCEN is actively pursuing alternative ways to strike the proper balance between achieving the appropriate skill mix of personnel—with emphasis being placed on strong analytical abilities to carry out it's multi-faceted mission—and guarding against committing a disproportionate share of its resources to meet payroll costs.

Question. Is the amount requested to maintain current levels accurate? What will all of this funding be applied to?

Answer. Funds requested to maintain current levels ($420,000) are adequate to meet expected increases. Funding will be applied to pay annualizations, the expected pay raise, and the other services areas where increased costs are expected. This assumes that the requested $199,000 for a labor cost adjustment is also received.

Question. When President Clinton took office he issued Executive Order 12837 that mandated the reduction of administrative costs, as well as personnel over a four year period. fiscal year 1997 was the last year of the Order, will you continue to maintain the mandated reductions in fiscal year 1998?

Answer. Executive Order 12387 required a 3 percent reduction in administrative overhead based on fiscal year 1993 funding levels, taken in each of fiscal years 1994, 1995, and 1996, and a 5 percent cut in 1997. FinCEN will maintain these efficiency reductions.

Executive Order 12839 mandated a reduction of 6 FTE for FinCEN by fiscal year 1995. FinCEN met its new target of 147. However, in 1995, 16 FTE were transferred from Treasury: 12 from the Office of Financial Enforcement, and four that FinCEN was funding through a reimbursable agreement. Additionally, FinCEN received 16 FTE from the Violent Crime Trust Fund which were made part of its base in fiscal year 1996. In fiscal year 1997, Congress authorized 2 FTE to be devoted to outreach efforts to the law enforcement community. FinCEN's current authorized FTE level is 181.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

FIBER OPTICS

Question. One of your fiscal year 1998 initiatives is funding for fiber optics to replace the existing underground telephone cable owned and maintained by Southern Bell. You have requested a total of $3,001,000 for this project, split between the Salaries and Expenses account and the Crime Bill funding. What is the total cost of this initiative? How long will this project take? Are there any potential environmental concerns at Glynco which could increase those costs?

Answer. The total cost is estimated to be $7.5 million. It is anticipated that the project can be completed about one year after the funds are completely appropriated. At this time, there are no known environmental concerns that will affect this project and increase the estimated cost.

TEMPORARY CENTER AT CHARLESTON, SOUTH CAROLINA

Question. Part of the rationale for establishing this temporary facility was that the FLETC was unable to commit the current resources to handle the expected influx of trainees. However, I am told that several INS and Border Patrol training classes have been canceled. With that in mind, would the FLETC have been able to handle the actual extra training without having to resort to the use of this temporary facility?

Answer. No. While it is true that the Border Patrol has canceled several programs both at Charleston and Glynco, they hope to reschedule and make them up later in the year. Also, this was planned to be a three-year initiative. Therefore, the training could not have been conducted without the temporary site.

RURAL DRUG TRAINING

Question. If the funding for the Rural Drug Training initiative is approved and the initiative is successful, would you expect that the FLETC would request a similar amount every year? What happens to this initiative when the Crime Bill is depleted?

Answer. The Rural Drug Training initiative consists of "train-the-trainer" programs; therefore, the FLETC will be training State and local agencies to conduct this training. Since this will take several years, it will be necessary to continue the funding. If the Crime Bill fund is depleted and the training has not been completed, the FLETC would request monies from the regular salaries and expenses appropriation.

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

Question. The President has requested $1.2 million for the ATF budget to maintain current IBIS (integrated ballistic identification system) sites, but no additional funding for new locations. We have received communications from several entities expressing support for sufficient funding to expand the IBIS program to new sites. Did you request funding for deployment of new IBIS systems in your original budget request to OMB?

Answer. Yes, ATF's original budget request to OMB included new sites. The request of $5.7 million included approximately 4.5 million for costs associated with new sites and $1.2 million for costs to maintain the current systems.

Question. I am a big proponent of the G.R.E.A.T Program—I believe that the only way we are going to steer young people away from gangs is through education. I understand that nine communities in Colorado have applied to participate in this program. What is the status of those applications?

Answer. All nine cooperative agreements with the communities in Colorado will be in place by the end of June.

Question. It was my understanding that the Violent Crime Reduction Trust Fund was designed to be used for one-time expenditures. Can you please explain to the subcommittee why you have requested funding for ongoing programs such as G.R.E.A.T and explosives inspections from the Trust Fund?

Answer. The G.R.E.A.T and explosives inspections was initially funded under the Violent Crime Reduction Trust Fund. The Administration decided to continue to fund the G.R.E.A.T and explosives inspections from the Trust Fund.

Question. In your prepared statement you say that ATF is contracting with the National Academy of Sciences to conduct the Smokeless and Black Powder Tagging Study as required by Congress. We are six months into fiscal year 1997. What is the status of that contract? What is taking so long?

Answer. ATF and the National Academy of Sciences (NAS) have not yet agreed on a statement of work for this study due to the NAS position that it is unable to meet the statutory requirement that the smokeless and black powder study be completed by September of 1997.

The Omnibus Consolidated Appropriations Act of 1997 mandates that the Secretary shall enter into a contract with the NAS to conduct a study of the tagging of smokeless and black powder by any viable technology for purposes of detection and identification. The law specifically requires that the study be presented to Congress no later than September 30, 1997. However, the NAS has consistently taken

the position that it is not feasible to complete the study within the time frame specified by the law. Therefore NAS will not agree to a contractual statement of work that complies the statutory deadline no statement of work can be finalized.

ATF does not have authority to extend the deadline imposed by statute for completion of the study on black and smokeless powders. Thus, we are unable to agree to the most recent NAS proposal which calls for completion of a study by August 31, 1998.

ATF submitted its first draft statement of work to the NAS in December of 1996. This statement of work reiterated the requirements of the law, including the requirement that the study must be completed by September of 1997. On or about January 29, 1997, the NAS submitted their proposal to ATF, which called for a completion date of August 31, 1998.

On April 16, 1997, ATF met with the NAS and reiterated that the Bureau lacked the authority to extend the time for completion of the study beyond the statutory limit. On May 7, 1997, ATF requested that the NAS amend their proposal to complete the study by September of 1997, or advise ATF in writing that they would not be able to perform the study as required. On May 16, 1997, the NAS submitted a revised proposal for the black and smokeless powder study. The revised proposal calls for the completion of the study by August 31, 1998. ATF has no authority to accept this completion date.

Question. Can a credible study be conducted in the time remaining? Do you think that the statutory requirement that the report be presented to Congress 12 months after the date of enactment (which would be September 1997) should be extended?

Answer. On February 4, 1997, the Chairman of the National Research Council submitted a letter to the Chairman of the Senate Committee on Appropriations, requesting an extension of the statutory deadline for the congressionally mandated study of the tagging of smokeless and black powder. The letter states that "a longer timetable is necessary if [NAS] is to carry out a study that will provide the independent, scientifically credible, and objective assessment that is needed."

ATF is not involved in the actual conduct of the study; thus, questions concerning the time frame necessary to complete a credible study should be directed to the NAS.

Answer. It is the position of the NAS that an extension is necessary so that they can carry out a study that will provide the independent, scientifically credible, and objective assessment that is needed.

Question. There is widespread concern about the ability of the Federal Government to address the Year 2000 computer problem in time. What is the status of your efforts?

Answer. I have appointed Mr. Patrick Schambach, Acting Assistant Director, Science and Information Technology, and Chief Information Officer, as the Year 2000 senior executive.

An Integrated Program Team (IPT) is being formed to provide technical input and oversight for all Bureau Year 2000 issues. The IPT will report directly to Mr. Schambach. It will promote Bureau awareness and ensure that appropriate actions are taking place throughout the Bureau to correct or mitigate Year 2000 problems.

Ms. Judith Walters, the Year 2000 Program Manager also serves as the IPT chairperson. She is the Bureau's single focal point for all Year 2000 information and actions. Ms. Walters reports to Mr. Schambach via Walter Scott, Chief, Information Services Division.

The Bureau is working concurrently in the two areas, Information Technology (IT) and Non-Information Technology (Non-IT). These efforts are well underway.

Information Technology

A Year 2000 contractor is on-site performing impact analysis of all Bureau application systems. This task will be completed in July 1997. Deliverables for this task include a Renovation Task Schedule and Renovation Plans for each Bureau system.

A Conversion Plan is in place for the Renovation Task. This task will implement the designated impact analysis assessments to repair, retire, or replace systems. Year 2000 compliance testing will be performed on each Bureau system.

We have an Enterprise System Architecture Plan in place that will ensure Year 2000 compliance for all IT equipment and operating software.

Non-Information Technology

Identification and assessment of impacted classifications of Non-IT inventory and infrastructure are underway.

The IPT will provide input into the development, staffing and execution of a Non-IT Vulnerability Assessment Plan and its execution.

Our Acquisitions Division is working to create an interim measure for future impacted Non-IT acquisitions higher authorities provide policy and guidelines pertaining to Non-IT acquisitions. (No one has not yet addressed Year 2000 compliance for Non-IT acquisitions.)

The current target date for Non-IT Vulnerability Assessment Plan execution completion is April 1998. Then, all classifications of impacted Non-IT equipment and facilities will have been identified for repair, retirement, replacement or other administrative protective action.

How big of a job is it for ATF?

IT current estimates only include costs for application systems efforts. This figure now stands at $5,140,000 and 24.6 staff years. It includes full contract life cycle support through March 2000. We are currently gathering Year 2000 related costs for our ATF Enterprise Systems Architecture Project.

Non-IT cost impacts will not be known until the Non-IT Vulnerability Assessment Plan is executed.

Question. You have requested funding to expand the Canine Explosives Detection Program so that you can train up to 100 dogs per year. How many requests do you currently have on hand from state and local law enforcement entities for explosives-sniffing dogs?

Answer. Since the inception of the Canine Explosives Detection Program (CEDP), ATF has received numerous inquiries and requests from State, local, and Federal agencies and foreign countries for information and training in our CEDP. ATF has always supplied as much information as possible to those agencies requesting information. It was not until fiscal year 1997 that ATF received any funding in our appropriations to expand and enhance its CEDP, which in turn is now allowing us to train canines for the State and local agencies who so desperately need it. ATF just recently started keeping records of requests for assistance and for formal training.

Thus far in fiscal year 1997, ATF has received approximately 50 unsolicited official requests from State and local agencies wanting information and applications for explosives detection canine training and approximately 40 official requests for accelerant detection canine training. ATF continues to receive daily inquiries and requests for information from interested law enforcement agencies/personnel across the United States.

Most of the requests for canine training received are from law enforcement agencies who have heard about the success of our program by "word of mouth" in the canine training community. Many of these agencies want our canines because of their ability to also detect weapons. ATF has not officially requested applications or advertised through any of the professional law enforcement journals (e.g., International Association of Arson Investigators, International Association of Bomb Technicians and Investigators, etc). Only during a few presentations this fiscal year has ATF informed the law enforcement community of the upcoming training available for State and local agencies.

ATF has received additional inquiries from foreign governments for canine training. These inquiries are then directed to the Department of State, Bureau of Diplomatic Security, Office of Antiterrorism Assistance (DoS-ATA). ATF only trains canines for foreign countries that meet the criteria set by the DoS-ATA program. The DoS-ATA totally funds all training and expenses associated with the foreign classes. DOD-ATA also stated they would fund all of the classes we are able to train for them.

Question. If funded, the proposed new National Laboratory Center would be completed in fiscal year 2000. Yet, you are requesting full funding to cover construction and relocation costs in the fiscal year 1998 budget. What was the rationale for requesting full funding up front? Why didn't you request partial funding-spread that required appropriations over two or three years?

Answer. Full funding was requested at the beginning of the project because GSA requires full funding before a construction contract can be issued. The $55 million requested in fiscal year 1998 is to be allocated for the construction of the facility only. According to GSA, they anticipate issuing a construction contract in fiscal year 1998 with completion of the facility by the end of 2000.

Question. Regarding the Youth Crime Gun Interdiction Initiative (YCGII), what is the expected time frame for the conclusion of this initiative?

Answer. The YCGII established ATF, State, and local law enforcement partnerships in 17 pilot cities to target the illegal firearms market to juveniles and gang offenders; utilized ATF's National Tracing Center (NTC) and Project LEAD (ATF's illegal firearms trafficking information system) to provide investigative leads that identify illegal firearms traffickers involved in the transfer and or sale of firearms to juveniles; and will shortly publish a series of trace analysis reports that provide

an overview of each site's crime gun problem based on crime gun traces provided by local law enforcement that will provide operational information about the illegal juvenile gun market.

The YCGII originally was established as a 1 year pilot project with respect to field operations. The YCGII was launched by President Clinton, Vice President Al Gore, Treasury Secretary Robert Rubin, and Attorney General Janet Reno at the White House in July 1996.

Question. Most Americans associate the Bureau of Alcohol, Tobacco, and Firearms with guns, forgetting the other ATF responsibilities. But, there are many ways in which ATF protects the American consumer. Would you care to comment on other, less well-known functions of the ATF.

Answer. ATF has a leading regulatory role over alcohol, tobacco products, and explosives that raises significant revenue for the United States Treasury and protects the public and consumers in myriad ways.

ATF collects almost $13 billion in excise tax revenues. At the same time, ATF oversees the production, importation and exportation, and labeling of alcohol beverages and tobacco products. Product integrity inspections and audits of these industry members are an essential part of protecting the revenue and the public. For example, in recent years,

ATF has investigated incidents concerning lead levels and other contaminants in alcohol beverages. Likewise, ATF conducts background investigations on applications submitted by a person or business wanting to enter the alcohol and tobacco industries in order to ensure that only qualified applicants are approved in order to safeguard the revenue and protect the consumers.

ATF regulates the labeling, advertising and unfair trade practice provisions that govern the alcohol beverage industry. ATF reviews and investigates labels and advertisements to prevent consumer deception. Approximately 60,000 labels are reviewed each year. ATF responds to consumer and industry complaints about labels or advertisements. In responding to the needs of consumers and the wine industry for accurate label information, ATF has established almost 150 viticultural areas where grapes are grown in the United States and has promulgated a definitive list of American grape varietal names. ATF reviews and approves new wine production practices and materials to help the American industry stay in the forefront of innovation while still protecting the consumer from being mislead or deceived about the product in the bottle.

ATF assists the States and the industry in many ways. Under the contraband cigarette law, ATF investigates interstate shipments of cigarettes to ensure that the relevant State taxes are paid. ATF also works with the Joint Committee of the States on the Study of Alcohol Beverage laws to facilitate coordination between ATF and State alcohol authorities. Many tax information exchange agreements have been entered into by ATF with the States to assist in the audit of ATF regulated industries.

ATF has a leading role in the international area by helping the United States Government to remove trade barriers that hinder exports by the American industries. ATF works closely with the United State Trade Representative in bi-lateral trade negotiations as well as in resolving distilled spirits and wine questions under the World Trade Organization obligations of the United States and under the North American Free Trade Agreement. ATF also represents the United States in international organizations related to these products.

ATF relies on innovation, partnerships and open communications to achieve its goal of a regulatory and enforcement programs that ensures collection of the revenue that is due and responds to needs and demands of consumers and the various industries.

Question. The United Nations International Study of Firearms regulations has been ongoing since 1995 under the guidance of U.N. Staff and a panel of experts. That group recently made recommendations to the Crime Commission to set out ways to regulate approaches to the civilian use of firearms among its Member States. I would be interested in knowing the ATF policy position concerning the following recommendations for global firearms regulations: (1) mandatory central registration and licensing of firearms and their owners, (2) mandatory regulations for firearms use, (3) mandatory safe storage and use regulations, (4) gun bans, (5) forfeiture programs, and (6) unnecessary regulatory burdens on industry.

Answer. The position of the Administration is to better coordinate with other nations to combat International illegal firearms trafficking and the enforcement of existing laws. U.S. delegations are instructed to oppose vigorously any attempt to undermine our country's sovereign right to enact and enforce its own laws to combat illegal traffic of firearms by criminals and criminal organizations.

It should be noted that although ATF participated in the United Nations International Study of Firearms, the Bureau did not participate in the recommendation phase of the study nor did it concur with those recommendations. It is ATF's position that in order to decrease the illegal flow of firearms to the criminal element worldwide a cooperative and organized effort by law enforcement agencies must be the key to accomplishing this goal. In this regard, the expenditures of enforcement energies can be best served at thwarting criminal activities without infringing on the rights of legitimate gun ownership. ATF is a neutral enforcer and regulator of the United States Federal firearms laws and that as an agency of the United States government, it does not endorse any firearms-related proposals that are contrary to U.S. law.

Question. Congressman Schumer recently released a report entitled "The War Between the States." I understand that this report was based upon raw data supplied by ATF. Do you believe it is accurate or appropriate to use ATF raw data to draw conclusions about a pattern of interstate migration of illegal firearms from states with weak gun laws to states with strong gun laws? Do you think that the disclaimer attached to the raw data by ATF is sufficient to prevent misuse and misinterpretation of that raw data?

Answer. Congressman Schumer's report was based upon his interpretation of raw data supplied by ATF's NTC. ATF provided this information to Congressman Schumer's office at their request along with a disclaimer that indicated what the data represents and the limitations of that data. Since firearms tracing information is available through the Freedom of Information Act, ATF can only advise the data requester about the limitations of the information. Additionally, ATF is not in a position where it can monitor or control the interpretation of firearms tracing data.

It has been ATF's experience that the problem with statistical data from the NTC's records is in the percentage of crime guns that represent the universe of crime guns in a particular area. As long as the data is examined in the proper context, raw data can be utilized to draw conclusions about a pattern of interstate trafficking. Every year the number of crime guns traced by law enforcement increases. In calendar year 1996, there were approximately 134,000 crime guns trace requests. ATF expects the number of crime gun traces to increase as more agencies utilize the NTC's services. Once this occurs, the accuracy of conclusions based upon firearms tracing data will increase since more crime guns are being traced. Until that occurs, current conclusions drawn from crime gun trace data must be caveated by stating that the findings are based on a data set that does not represent the entire universe of crime guns; however, drawing findings from data sampling as opposed to the entire data universe is a widely accepted and valid practice among the research and academic community. Reasonably valid conclusions can be drawn from such data sampling methods.

Question. What plans does the Department have to modernize and expand the business systems for ATF's Firearms and Explosives Import Branch and the National Firearms Act Branch? When was the last time these business systems were updated?

Answer. Modernization of the business system within the National Firearms Act (NFA) Branch is currently underway. The newer version is being designed to accommodate state-of-art technology in the processing of applications, notices and other documents associated with the manufacture, importation, transfer, registration, transport and exportation of NFA weapons. This particular business system has been subject to ongoing enhancements since 1983.

U.S. Secret Service

WHITE HOUSE SECURITY

Question. The Service is requesting additional funding and staff to further implement White House Security Review recommendations. Has the review been completed?

Answer. In September 1996, the Secret Service forwarded the final report to the Treasury Department concerning the White House Security Review.

Question. When do you expect to begin implementation of the recommendations and when will it be complete?

Answer. All of the recommendations of this review have been implemented. Permanent structural security changes, pending as yet undetermined requirements surrounding the establishment of "Presidential Park", will be installed over the next two years. Further, It is anticipated that funding for all of the additional staffing

and security enhancements will be sufficient with the funding requested in the fiscal year 1998 Budget Request.

Question. Do you have any idea at this time what the total cost will be?

Answer. The Service, with the funding contained in the fiscal year 1998 funding request, will have budgeted approximately $70 million for this effort. Approximately $25 million of this amount is a continuing cost for the increased staffing. These are the total costs pending final decisions regarding the establishment of "Presidential Park".

YEAR 2000 CONVERSION

Question. There is widespread concern about the ability of the Federal Government to address the Year 2000 computer problem in time. What is the status of your efforts?

Answer. The Secret Service is making excellent progress converting our Information Technology assets to be Year 2000 compliant. We have already converted well over 50 percent of our mainframe/legacy code to be compliant, and we have active programs to correct problems associated with our personal computers, local area networks, and mid-range systems. We are actively working with vendors and service providers to ensure that our communications infrastructure (both voice and data) will function properly.

Question. How big of a job is it for the Secret Service?

Answer. The Secret Service has an inventory of 31 mainframe/legacy applications. Our initial assessment identified sixteen applications that were non- compliant, thirteen of which are being corrected and three which will be replaced with new technology. The thirteen applications being corrected contain a total of approximately 2.5 million lines of source code. The Service also maintains an inventory of approximately 4000 personal computer systems, most of which are non-compliant and will need to be either corrected, upgraded, or replaced.

Question. Have you determined whether the $1 million requested for fiscal year 1998 will be sufficient?

Answer. The Secret Service has projected an overall cost for conversion of our information technology systems to be $3.6 million, including both government employees and contractor support. The $1 million requested for fiscal year 1998 is sufficient to meet our contractor costs in fiscal year 1998. We also project costs in outyears, to cover such things as the expansion of date displays on reports, and other less critical or unexpected changes.

The Service recently established a working group to specifically address "non IT" technology that could be impacted by the Year 2000. Until this working group has completed its inventory and assessment process, we cannot project the associated conversion cost.

FINANCIAL CRIMES INVESTIGATIONS

Question. In the minds of most people, the Secret Service is basically responsible for protecting the President and Vice President. However, the Service protects all Americans in other ways such as cracking down on counterfeiting and investigating allegations and computer and telemarketing fraud. Would you care to comment on other, less well-known functions of the Secret Service?

Answer. In addition to protection, the Secret Service is tasked with several investigative jurisdictions relating to protecting the public and financial institutions from organized criminal groups. The Financial Crimes Division of the Secret Service coordinates this mission and is responsible for the following:

Plans, reviews, and coordinates criminal investigations involving Financial Systems Crimes, including bank fraud; access device fraud; telemarketing and telecommunications fraud (Cellular and hard wire); computer fraud; fraud associated with automated payment systems and teller machines; direct deposit fraud; investigations of forgery, uttering, alteration, false personation, or false claims involving U.S. Treasury Checks, U.S. Savings Bonds, U.S. Treasury Notes, Bonds, and Bills; electronic funds transfer (EFT) including Treasury disbursements and fraud within Treasury payment systems; fraud involving U.S. Department of Agriculture Food Coupons and Authority to Participate (ATP) cards; Federal Deposit Insurance Corporation investigations; Farm Credit Administration violations; fraud and related activity in connection with identification documents; fraudulent commercial, fictitious instruments and foreign securities; coordinates the activities of the U.S. Secret Service Organized Crimes Program and oversees money laundering investigations.

Plans, directs and coordinates all seizures effected by the Secret Service under Title 18 U.S.C. 492, 981, 982 and 984, as well as Title 49 U.S.C. 80303. Interacts with the Office of Chief Counsel to ensure compliance with requisite legal mandates.

Routinely coordinates with the Treasury Executive Office for Asset Forfeiture (TEOAF) to ensure that all policy and procedure established by the Department of the Treasury are complied with. Oversees the responsibilities of the national storage contractor, EG&G Dynatrend, to ensure proper storage, maintenance, accountability and disposition of seized property. Directs the investigation of contesting parties' claims of pauper status, and the petitions of those seeking remission or mitigation of forfeitures. In partnership with the TEOAF oversees the sharing of assets with local, state, and foreign law enforcement agencies participating in joint criminal/forfeiture actions. Monitors legal and procedural case trends in the asset forfeiture community and the courts, and maintains appropriate liaison with other agency components in an effort to remain abreast of community practice.

FINANCIAL INSTITUTION FRAUD (FIF) AND RELATED CRIMINAL INVESTIGATIONS

On November 5, 1990, pursuant to Public Law 101–529, Section 528, the Secret Service received concurrent jurisdiction with Department of Justice law enforcement personnel "to conduct or perform any kind of investigation, civil or criminal, related to fraud or other criminal or unlawful activity in or against any federally insured financial institution..."

Annually, agents of the U.S. Secret Service review thousands of criminal referrals submitted by bank regulators and financial institutions. The Secret Service promotes an aggressive policy towards conducting these investigations in an effort to safeguard the soundness of the nation's financial institutions.

Major Initiatives:

U.S. Secret Service has concurrent jurisdiction with the Department of Justice to investigate fraud, both civil and criminal, against federally insured financial institutions. The Crime Bill of 1994 extended this investigative authority to the year 2004.

The Service's financial institution fraud program distinguishes itself from other such programs by recognizing the need to balance traditional law enforcement operations with a program management approach designed to prevent recurring criminal activity.

We are encountering new and developing criminal schemes which attack financial institutions, particularly those crimes being committed by organized ethnic criminal groups such as the West Africans, Asians and East Europeans.

An American Bankers Association survey last year concluded that the two major problems in the area of bank fraud today are:

(1) the fraudulent production of negotiable instruments through the use of what has become known as "desk top publishing" and

(2) access device fraud.

Recent U.S. Secret Service investigations indicate that there has been an increase in credit card fraud, fictitious document fraud and fraud involving the counterfeiting of corporate checks and other negotiable instruments and false identification documents through the use of computer technology.

18 USC 514 was enacted into law in 1996 to prevent the increasing amount of fraud through the use of fictitious instruments. This law was passed through the joint efforts of Congress, Department of Justice and the Department of Treasury. The Service's Financial Crimes Division is responsible for the investigations of Title 18 USC 514 (Fictitious Instruments).

ACCESS DEVICE FRAUD

Industry sources estimate that losses associated with credit card fraud are in the billions of dollars annually.

The U.S. Secret Service is the primary Federal agency tasked with investigating access device fraud and its related activities under Title 18 USC 1029. Although it is commonly referred to as the credit card statute, this law also applies to other crimes involving access device numbers, (e.g., automatic teller machines, cell phone accounts.)

COUNTERFEIT AND FRAUDULENT IDENTIFICATION

Since 1982, the U.S. Secret Service has enforced laws involving counterfeit and fraudulent identification. Title 18, Section 1028 of the U.S. Code, defines this criminal act as knowingly and without lawful authority producing, transferring, or possessing an identification document or false identification document in order to defraud the U.S. Government. The use of Desk-Top Publishing computers to counterfeit and produce different forms of identification for the purpose of obtaining funds illegally, remains one of the Secret Service's strongest core violations.

MONEY LAUNDERING

The Money Laundering Control Act makes it a crime to launder proceeds of certain criminal offenses called "specified unlawful activities" (SUA), which are defined in Title 18 USC 1956 and 1957, and in Title 18 USC 1961, (the Racketeer Influenced and Corrupt Organizations Act (RICO)).

The Secret Service has observed an increase in money laundering activities as they relate to these predicate criminal offenses. This is especially witnessed in the area of financial institution fraud, access device fraud (credit card, telecommunications and computer investigations), food stamp fraud, and counterfeiting of U.S. currency.

COMPUTER FRAUD

In 1986, Congress revised Title 18 of the U.S. Code to empower the Secret Service to investigate fraud and related activities concerning computers that were described as "Federal Interest Computers" as defined in Title 18 USC Section 1030. The Secret Service has also investigated cases where computer technology has been used in traditional Secret Service violations such as counterfeiting and the creation of false identification documents. In order to address these technologically advanced violations, a number of special agents of the U.S. Secret Service have been trained in the forensic examination of computer systems as well as other electronic devices.

In 1996, a newly established state of the art computer and telecommunications laboratory was added to the Financial Crimes Division.

TELECOMMUNICATIONS FRAUD

The Secret Service continues to maintain its role as one the most active law enforcement agencies in the investigation of telecommunications fraud. Gangs and organized criminal groups require instantaneous, reliable, and international connectivity in order to maintain and expand their illicit operations.

The Secret Service works closely with other law enforcement agencies as well as representatives of the telecommunications industry in conducting telecommunications fraud investigations. These types of investigations, in many instances, act as a nexus to other criminal enterprises such as access device fraud, counterfeiting, money laundering, and trafficking in narcotics.

PROGRAM FRAUD INVESTIGATIONS

The Program Fraud Investigations Branch was created to coordinate investigations related to fraud committed against government programs that are within the investigative jurisdiction of the Secret Service. This branch is responsible for identifying systemic weaknesses in government programs (Electronic Benefit Transfer, food stamps) which permit recurring criminal activity, and recommend corrective measures to strengthen these systems.

FORGERY

Hundreds of millions of government checks and bonds are issued by the United States each year. This large number attracts criminals who specialize in stealing and forging checks/bonds from mail boxes in apartment houses and private homes. During a fraudulent transaction, a check/bond thief usually forges the payee's signature and presents false identification.

OPERATION TRIP (TREASURY RECIPIENT INTEGRITY PROGRAM)

In March 1994, the Secret Service established "Operation TRIP," which was created to identify systemic weaknesses in the Treasury Department's disbursement systems and to subsequently suppress the associated fraudulent activities involving these systems worldwide. In a cooperative effort with other government agencies, the Financial Crimes Division has assisted in establishing uniform standards of benefit recipient verification, developed anti-fraud disbursement procedures, identified weaknesses in current verification systems and proposed acceptable alternatives to eliminate program fraud in this country and abroad.

To date, the Financial Crimes Division has assisted in Operation TRIP efforts in Manila, Canada, Guam, Puerto Rico, Spain, Italy, Germany, Japan, Korea and United Kingdom.

FOOD STAMP VIOLATION

The Food Stamp Act of 1977 was enacted by Congress to provide nutritional food to low- income families. It further directed the Secret Service to aggressively pursue

fraud in the food stamp program. The possession or use of Food Stamp Coupons, Authorization to Participate cards, or Electronic Benefit Transfer cards by unauthorized persons compromises the integrity of the Food Stamp Program, and is a criminal violation of the Food Stamp Act.

ELECTRONIC BENEFITS TRANSFER (EBT) CARD

The Vice President's National Performance Review has designated the Electronic Benefits Transfer (EBT) card as the method of payment for the delivery of recurring government cash benefit payments to individuals without a bank account, and for the delivery of non-cash benefits such as Food Stamps. For individuals with bank accounts, Electronic Funds Transfer will continue as the preferred method of making federal benefit payments. The National Performance Review has created the Federal EBT Task Force to design and implement the new nationwide program, a program which will annually deliver over $111 billion in benefits from government agencies such as the Departments of Agriculture, Health and Human Services, and Veterans Affairs, the Office of Personnel Management, and the Railroad Retirement Board.

The Federal EBT Task Force is attempting to design a system that will piggyback on the existing commercial credit/debit card infrastructure. The task force has proposed that EBT payment services be provided by financial institutions designated as financial agents of the government. The new EBT card will be an on-line debit system with benefits periodically placed in a customer's account. Customers will use their cards to retrieve the cash benefits from automated teller machines and food benefits from Point of Sale terminals at participating retail stores.

The Financial Crimes Division is taking a preventive approach and is recommending fraud deterrent features to this new system as it is designed.

As with any recurring payment system, EBT is open to a wide variety of fraud, including: multiple false applications for benefits, counterfeiting of the EBT card, and trafficking in non-cash benefits for cash or contraband.

In an attempt to combat these potential attacks, the Financial Crimes Division has suggested the use of: biometric identifiers to verify applicants' identities and prevent application fraud; counterfeit deterrents such as four color graphics and fine line printing and the use of holograms and embossing in the design of the card; and features that allow investigators to monitor transactions and utilize the audit trail to identify criminals who illegally traffic in food benefits.

Although the new EBT system design is still evolving, it can be assured that criminals with expertise in credit/debit card fraud will attack a program of this magnitude. Fraud associated with EBT programs is a violation of two of the Secret Service's primary jurisdictions; Title 18, USC 1029, Access Device Fraud and Title 18 USC 1030, Computer Fraud.

NIGERIAN ADVANCE FEE FRAUD "OPERATION 4–1–9"

The U.S. Secret Service has initiated "Operation 419" which is designed to target Nigerian Advance Fee Fraud on an international scale. Indications are that losses attributed to advance fee fraud are in the hundreds of millions of dollars annually. Agents on temporary assignment to the American Embassy in Lagos, in conjunction with the Regional Security Office, supplied information in the form of investigative leads to the Federal Investigation and Intelligence Bureau (FIIB) of the Nigerian National Police. This project was designed to provide Nigerian law enforcement officials with investigative leads to enable them to enforce their own jurisdictional venues.

On July 2, 1996, officials of the FIIB, accompanied by Secret Service agents in an observer/advisor role, executed search warrants on sixteen locations in Lagos, resulting in the arrests of forty-three Nigerian nationals. Evidence seized included telephones and facsimile machines, government and Central Bank of Nigeria letterhead paper, international business directories, scam letters and addressed envelopes, as well as files containing correspondence from victims throughout the world.

On July 25, 1996, two of these agents received awards from the Secretary of the Treasury for their work in this area over the last two years.

TASK FORCES

The Secret Service is involved in numerous task forces with Federal, state, county, city, and local law enforcement agencies nationwide. Several of these task forces specifically target international organized crime groups and the proceeds of their criminal enterprises. All assets forfeited are shared with members of the task forces. Congress continues to recognize the West Africans and Asians as two of the emerging organized criminal groups in this country.

These groups are not only involved in financial crimes, but investigations indicate that the proceeds obtained from financial fraud are being diverted towards other criminal enterprise. During fiscal year 1996, the Secret Service arrested 2,843 individuals through the use of task force operations. The Secret Service is involved in the following task forces that specifically target these groups:

Nigerian Task Forces
Criminal Alien Task Forces
Financial Crimes Task Forces
Asian Organized Crime Task Forces
Violent Crimes Task Forces
HIDTAs (High Intensity Drug Trafficking Areas)
INTERPOL
IBFWG (Interagency Bank Fraud Working Group)
CABINET (Combined Agency Border Intelligence Network)

ASSET SEIZURES AND FORFEITURES

Provides assistance to investigative offices by supplying counsel, direction, expertise and temporary support personnel as needed in terms of criminal investigations and the seizure and forfeiture of assets.

Major Initiatives:

Continued emphasis on forfeiture actions involving program fraud (e.g. food stamp fraud and Medicare fraud). This emphasis is underscored by specialized training of both Asset Forfeiture Division and field personnel, and active involvement in these investigations from onset to criminal prosecution.

Continued funding of task forces which have prioritized the use of asset forfeiture as a significant criminal deterrent.

Continuation of an aggressive training program to enhance the quality and quantity of Secret Service seizures involving fraud and money laundering. Continued training of field investigators and support components, emphasizing basic asset forfeiture skills, and providing skill enhancement to those already possessing a basic knowledge of the program.

As a funding source for the Service, allocates monies for the purchase of items having intrinsic law enforcement benefit and which perpetuate forfeiture investigations. Such items include vehicles, communications systems, law enforcement/forensic technologies, and the purchase of evidence/information.

Coordination of the distribution of forfeited property requested for official use by Secret Service field offices, as well as other federal, state, and local law enforcement agencies participating in joint investigations resulting in the seizure and forfeiture of assets.

TRAINING

The Financial Crimes Division has become involved in the training of foreign law enforcement officials in the areas of investigative techniques, types of international fraud schemes, and identification of systemic weaknesses in their financial systems which lead to fraudulent activity. The Financial Crimes Division has provided training for over 2,000 foreign law enforcement and banking officials from the following countries: Latvia, Russia, Japan, Slovenia, Cyprus, Ukraine, Pakistan, Australia, Hong Kong, Peru, Korea, France, Aruba, South Africa, Mexico and Spain.

THE ECONOMIC IMPACT TO U.S. CITIZENS

As stated, the Secret Service recognizes that only through partnerships with the community, financial systems, and international law enforcement can an effective strategy to thwart organized financial crime be successful. In fiscal year 1996, the actual losses associated with Secret Service financial crime investigations was approximately $500 million. Were it not for the intervention of the Secret Service in identifying and arresting criminals executing these schemes, the industry estimated that in excess of $10 billion in "potential losses" would have occurred. These figures demonstrate the requirement for an innovative, flexible, coordinated law enforcement strategy designed to adapt to the criminal schemes of the future.

Question. One of your other functions is financial crime investigations. How does your responsibility dove-tail with those of the Financial Crimes Enforcement Network, FinCEN?

Answer. The Secret Service has responsibility for conducting investigations relating to fraud committed against federally insured financial institutions and systems. Federally insured financial institutions are required to file Suspicious Activity Reports (SARs) when a crime or suspected crime is committed against or through their

institutions. The SARs are filed with FinCEN and the Secret Service receives the SARs through FinCEN. The SARS are filed as a result of our financial crime investigations and are also used to initiate investigations.

Due to our unique jurisdictional responsibilities we have access to many of the databases which FinCEN maintains. These databases allow us instant access to information, and we utilize these resources prior to tasking FinCEN to conduct similar inquiries. Many of the agencies which utilize FinCEN do not possess these databases and must use FinCEN.

FinCEN is also a repository for Bank Secrecy Act (BSA) information which is often used in our financial crime and money laundering investigations.

The Secret Service maintains a good working relationship with FinCEN and is currently working with them on the SARs to create a database which can be utilized by all of the pertinent law enforcement bureaus.

U.S. CUSTOMS SERVICE

DRUG SMUGGLING

I would like to take the time to recognize in fiscal year 1996 the Customs Service was responsible for seizing 1 million pounds of narcotics, more than any other federal agency. Unfortunately, as the Customs Service gets better at doing its fight against drugs, the drug traffickers get better at smuggling across our borders.

Question. Commissioner Weise, your submitted testimony mentioned intelligence as being a key objective for the Customs Service, can you explain the types of intelligence information you're talking about?

Answer. With the enormous volume of activity taking place at all ports of entry it is imperative that Customs applies its resources most effectively and targets those persons or conveyances that present a high risk of smuggling contraband into the United States. Just like any other law enforcement agency, Customs develops its own intelligence from investigations and informants. This intelligence is specific to Customs border drug interdiction mission and focuses on specific tactical intelligence that is needed to target high risk modes of conveyances, traffickers and smuggling methods. In addition, Customs depends on the Intelligence Community and other U.S. Federal law enforcement agencies to provide the much needed foreign based intelligence that is specific to Customs collection requirements. While efforts of these organizations meet some of Customs requirements there is still a need to develop and exploit targeting intelligence that is specific and unique to Customs. That is why Customs established a series of Intelligence Collection and Analysis Teams (ICATs) along the Southwest border whose core responsibilities are to collect all-source intelligence, intensify source and informant recruiting, analyze data, and disseminate tactical intelligence products to line officers. The ICATs have been very successful in their year and a half existence and have contributed to the seizure of over 16,550 pounds of cocaine, 37,214 pounds of marijuana and over $4.3 million in currency.

Question. Can you highlight for the subcommittee the Customs Service's most effective tools in catching drug smugglers at the ports of entry?

Answer. With the deep concealment methods that are being utilized by smugglers, the technologies that allow us to perform non-intrusive examinations have proven to be a tremendous asset. Such technologies include the following:

—Large scale truck x-ray system
—Mobile truck x-ray system (prototype system in testing)
—Transportable gamma-ray imaging system (prototype system in testing)
—X-ray vans and Pallet x-ray machines.

In addition to the gamma/x-ray systems listed above, the following tools have been successfully utilized by inspectional personnel to detect narcotics:

—Busters (density detection devices)
—Laser Range Finders
—Contraband Detection Kits (CDK's) with Fiberscopes

Please see the attached material on Customs applied technology for explanations of these devices.

[CLERK'S NOTE.—The photos of Customs applied technology do not appear in the hearing record but are available for review in the subcommittee's files.]

While the above represents some of the most advanced technologies to date, one of the most effective tools in combating narcotic smuggling is the utilization of canines. Narcotic detection dogs have proven to be one of the most cost effective tools used in the fight against smugglers.

One must also realize that, prior to using any of the above tools, the most significant factor in making seizures is the ability to target effectively. Sound research coupled with Officer intuition is the base on which meaningful enforcement is built. The most advanced technologies used on poor targets will yield poor results. But when the proper tools are put at the disposal of a well trained, well informed officer, the result is a well equipped individual capable of combating the narcotics smuggler.

A Rocky Mountain HIDTA was created in fiscal year 1997, which is an entity created to coordinate drug enforcement efforts at the state and local level.

Question. Can you tell me how the HIDTAs are assisting the Customs Service in its work at the port of entry?

Answer. The High Intensity Drug Trafficking Areas (HIDTAs) enable Federal, State and local law enforcement agencies to marshal the efforts of manpower and assets with the consolidated mission of disrupting and dismantling international drug smuggling organizations operating in their specific HIDTA location. This is accomplished by collectively investigating and arresting suspects, seizing their assets and dismantling their hierarchy. The intelligence gathered as a result of the HIDTA investigations regarding smuggling methods, routes and techniques is in turn provided to those border interdiction agencies such as Customs and the Border Patrol.

Customs inspectional personnel conducting narcotics enforcement operations at the Ports of Entry are faced with enormous volumes of cargo and passengers entering the United States. Inspectors focus their attention on the ever changing trends and concealment methods employed by the smuggling organizations. The intelligence provided as a result of the HIDTA investigations assist Customs Inspectors to identify and target vehicles, pedestrians and specific cargo shipments.

BORDER CORRUPTION

Commissioner Weise, there have been numerous articles on the apparent corruption of Customs agents and inspectors, primarily along the Southwest border. And of course, it's the scandal that sells papers in this town, so unfortunately the actions of a small number of corrupt people get more attention. The Customs Service has responded not only with requesting an FBI investigation, but also in proposing to fund relocations of Customs agents.

Question. Under this program of agent relocation, would the agents be transferred voluntarily or involuntarily?

Answer. The Office of Investigations does not currently have a system to rotate personnel off the Southwest Border. Personnel assigned to the Southwest Border must apply and are relocated based upon merit staffing practices. They can be reassigned on a voluntary or involuntary basis, dependent upon Customs needs. Customs seeks to fill all assignments with volunteers where possible. However, if sufficient volunteers cannot be found, personnel may be relocated to meet the threat.

Question. Would these transfers be focused on particular individuals thought to be susceptible to corruption or would this be a random transfer program in high-threat drug zones?

Answer. Were Customs to establish a formal rotational policy on the border, the policy would require employee rotation on a systematic basis after the completion of a border tour. A systematic relocation policy would be based upon law enforcement threat. This would enable Customs to effectively maintain its border presence and systemically rotate personnel off the border to a new duty station. A new agent would be assigned to the border location. Of course, the establishment of a formal rotation policy on the border so that our personnel could be systemically rotated would require that Customs be provided the additional funding required to implement the policy. This has been a problem previously when attempts to establish a formal rotation program failed due to a lack of resources. Currently, Customs estimates that the average cost to relocate one employee agent is $60,000. These expenditures would have to be allocated to Customs before the agency personnel could be rotated on and off the border upon completion of a tour of duty.

Question. Could you outline for the subcommittee what type of person would the Customs Service look to transfer?

Answer. Customs could transfer agent personnel on an systematic basis since all agents are subject to mobility reassignment as a condition of employment. While recognizing the funding requirements, If properly funded, it would be better to systematically rotate personnel onto and off the border. If funded, a systematic approach to agent relocations would be the best way to assist in the elimination of perceived corruption on the border. A systematic approach to rotation in hard-to-fill border locations would also enhance recruitment of highly qualified personnel and would enhance morale on the border.

Question. If someone was identified as being potentially influenced by drug smugglers, why would Customs just transfer them instead of separating them from the Customs Service?

Answer. The term "influenced" is somewhat ambiguous. Understanding the underlying meaning of the question however, an employee suspected of wrong doing would be subject to investigation. If this investigation could prove by a preponderance of the evidence (the standard used by the Merit Systems Protection Board (MSPB)) the employee in question would be subject to disciplinary actions including separation. In the case of special agents, Customs has the ability to relocate these employees for a variety of reasons, including concern over conflicts of interest or public perception of same.

CURRENT ISSUES

At the direction of Congress, the GAO has conducted an initial survey of the Customs' computer modernization program called ACE, or Automated Commercial Environment.

Question. What did the Customs Service request for the ACE program in fiscal year 1998 and under which accounts are the funds requested?

Answer. The President's fiscal year 1998 Budget contains $15 million for ACE as part of the Treasury Department's Automation Enhancement Appropriation. As was done in fiscal year 1997, these funds will be transferred to Customs in the Salaries and Expenses Account.

Question. What is the ACE request amount based on?

Answer. The ACE budget request for fiscal year 1998 is $15 million, which is the annual recurrence of the amount requested in Customs fiscal year 1995 ACE budget initiative. That initiative assumed a multi-year approach for developing ACE, with the annual budgets directed toward the segments of the system development life cycle occurring during those years. Having completed the strategic planning and user requirements for ACE in fiscal year 1995, and the functional requirements and internal prototyping in fiscal year 1996, Customs is now engaged in developing the first operational demonstration of ACE which will be implemented as the National Customs Automation Program (NCAP) prototype beginning at the end of fiscal year 1997. Based on this progress and the recently updated ACE Project Plan, we have developed a detailed budget plan for fiscal year 1998.

Rather than a single "switch on" of the new system, ACE will be implemented in a series of "releases", each comprising a set of automated features, and deployed to selected Customs ports and segments of the trade community. This is the only effective way to implement a system of this size and manage the inherent risk appropriately, especially when transitioning from a legacy system (ACS) that has been in operation for 13 years supporting Customs and the trade community. The NCAP prototype will be the first such release, followed by four more major releases staged in 9–12 month cycles. Each release will actually be deployed as a series of sub-releases 2 to 4 months apart. The current ACE Project Plan describes, in detail, the schedule for the NCAP prototype and the first major release of ACE. This plan is the basis for the fiscal year 1998 ACE budget.

For fiscal year 1998, Customs plans to complete the implementation of the NCAP prototype (by June 1998) and develop the first sub-releases of Release 1 which will deployed in the beginning of fiscal year 1999. Customs also plans to expand the deployment of the Trend Analysis Platform (TAP) and ACE data warehouse, which are analytical systems that support field users of both ACE and the current legacy system (ACS). Planned activities for fiscal year 1998 that are supported by the ACE budget are (in $000s):

Project component	*Dollars in thousands*
Continuing definition and analysis of requirements	$2,800
User training and outreach	950
Design, programming and testing	3,700
Project management	400
Security planning and design	450
Team support	840
TAP and data warehouse development/expansion	1,750
Database design/administration	360
Selectivity redesign project	2,750
ACE field equipment deployment	1,000
Total	15,000

The NCAP prototype which will be deployed during fiscal year 1998 and which is the primary product delivered with the fiscal year 1998 funding will have the following scope:

—it will process truck cargo arrivals at the ports of Laredo, TX, Detroit, MI, and Port Huron, MI;

—based on responses to a recent Federal Register notice announcing the prototype, there will most likely be five major importers participating;

—the prototype will implement three of the key automated features from the NCAP portion of the Mod Act—reconciliation, remote filing, and periodic filing.

—NCAP will include a national, periodic financial statement with automated payment and an accounts receivable subsidiary ledger (required by the CFO Act);

—it will demonstrate the streamlined ACE "Track 4" process for releasing cargo with minimal information burden on the trade participants; and,

—it will demonstrate an account-based approach to improving compliance and tracking compliance related activities.

The first sub-releases of Release 1, which will be developed during the last half of fiscal year 1998 and deployed in early fiscal year 1999, will expand the NCAP prototype functions to rail cargo and will also implement the "Track 2" and "Track 3" approaches for handling required trade data. fiscal year 1998 will also include the expanded deployment of the initial NCAP prototype functions to an additional six land border ports: Buffalo, Blaine, El Paso, Nogales, Champlain, and Eagle Pass.

Question. How significant of a threat do Customs Service personnel face with weapons of mass destruction and precursor chemicals?

Answer. There is a small yet significant threat to Customs Service personnel posed by the illegal export or import of weapons of mass destruction or their components. This is supported by threat assessments that have been conducted by the Intelligence Community and by the results of a pilot program conducted by the Customs Service and the Department of Energy, relative to the detection of radioactive isotopes at several large international airports in the United States.

Conversely, the threat to Customs Service personnel posed by the illegal trafficking of precursor chemicals remains high. The attempts at either importing or exporting illegal precursor chemicals poses a very serious threat to Customs Service personnel stationed at the various border inspection facilities throughout the U.S. This was evident in a recent incident on the Canadian Border where Customs Service personnel intercepted a large quantity of un-manifested precursor chemicals used to clandestinely manufacture Methamphetamine. These precursors were in a tractor trailer rig loaded with commercial merchandise destined for the U.S. Although this seizure and arrest was effected without injury or contamination of the Customs personnel involved, the potential for injury or contamination, when dealing with un-manifested precursors, is extremely high.

Question. There is a presence of the National Guard at ports of entry. Can you describe what the role of the Guard is at ports of entry and the percentage of the Customs' workload the Guard is a part of?

Answer. National Guard support for our drug interdiction mission has become an integral part of Customs anti-smuggling efforts.

Some of the specific ways the National Guardsmen assist Customs personnel include the following:

National Guard personnel assist Customs Canine units by facilitating rapid searches of cargo, baggage, and conveyances.

Operating under State authority and under direct Customs supervision, they assist in conducting pre-primary inspections, Southwest Border Team Oriented Processing (STOP) operations, inspecting truck cabs, fuel tanks, tires, trailers and arriving cargo using density meters (Busters), laser range finders, fiber optic scopes, as well as forklifts, power tools, and vehicle lifts.

They assist in the devanning and reloading of cargo containers, trailers and commercial shipments.

They assist in traffic control and the handling, transportation, and destruction of seized narcotics.

They assist inspectional personnel by operating many high technology, non-intrusive detection devices such as mobile and permanent x-ray systems and hand-held density meters.

The assistance provided by the National Guard in counter-drug law enforcement has been invaluable and is directly responsible for Customs achieving many drug seizures and related arrests. In the commercial cargo environment in fiscal year 1997 to date, members of the National Guard operating at the ports of entry in the United States participated and provided support in 89 narcotics seizures totaling over 75,000 pounds of marijuana and cocaine.

As a force multiplier, Guardsmen supplement existing staff thereby increasing the number of examinations, and more importantly, increasing the intensity of these exams. National Guard support proportionally increases the number of seizures made by Customs by increasing the number of inspections conducted on high risk shipments and conveyances. The added staff also decreases the inspection time per shipment and conveyance.

Question. How does the Customs Service use technology to assist in its mission?

Answer. Technological improvements in computer processing and targeting along with inspectional aids like the x-ray facility in Otay Mesa, California have helped us with the challenge of combating narcotics smugglers.

Due to the fact that drug traffickers are themselves investing in high technology to advantage their own smuggling operations and defeat ours, Customs employees have been equipped with better tools to perform more intensive narcotics exams and investigations. Along the Southwest Border for example, port infrastructures have been fortified to include four additional nonintrusive truck x-ray systems in fiscal year 1997. The following ports of entry have been scheduled to receive fixed site (Otay Mesa style) truck x-ray equipment:

—Calexico, California (new cargo facility)
—El Paso, Texas (Bridge of the Americas)
—El Paso, Texas (Ysleta)
—Pharr, Texas

The truck x-ray at Calexico, California, has been completed and has been operational since March of this year. The additional nonintrusive inspection systems for El Paso and Pharr are scheduled to be operational by October 1997. This will increase the number of operational fixed-site x-ray equipment from a current level of one system operating in Otay Mesa, California, to a total of five systems at the above referenced ports of entry.

Additionally, Customs is testing mobile x-ray and transportable gamma ray technology at various ports of entry along the Southwest Border. A mobile-truck x-ray prototype system was used at the Nogales, Arizona, port of entry in support of an all inclusive statewide enforcement operation. This system is scheduled move to various Texas ports of entry this year in support of Customs coordinated enforcement/ intelligence operations planned for that region.

Seizures in the commercial cargo environment in fiscal year 1996 more than doubled over fiscal year 1995 levels. This dramatic increase was largely due to the implementation of technology and inspection techniques in support of enforcement operations along the Southwest Border, especially Operation Hard Line. The amount of cocaine seized by weight in the commercial cargo environment along the Southwest Border increased by a factor of almost 5 over fiscal year 1995 levels to a total of 15 cocaine seizures weighing 15,114 pounds.

In addition, as part of Operation Hard Line, money has also been allocated to purchase equipment such as pallet x-rays, x-ray vans, portable contraband detectors (Busters), fiberscopes, and computers to allow inspectional personnel to conduct faster, more intensive, less intrusive examinations.

Customs has numerous automated and non-automated cargo programs in place to meet the threat of smuggling. Customs automated systems were structured to be dynamic and versatile to address the fluctuation in smuggling trends, with the ultimate goal of identifying high risk cargo for examination without inhibiting the movement of legitimate trade. These programs include the Cargo Selectivity System and Three Tier Targeting System within our Automated Commercial System (ACS) and the Line Release Program. System criteria may be initiated at both the national and local level.

Customs has also developed an Automated Targeting System (ATS) to assist Customs officers in identifying importations which pose a substantial risk of containing narcotics or other contraband. It is a rule-based expert system which combined the best features of two previous targeting systems into a single screening, profiling and targeting system. ATS has been installed in Newark, New Jersey, and Laredo, Texas. The Anti- Smuggling Initiative in the fiscal year 1998 budget request seeks $3.0 million to continue the installation of this system at other high-risk ports.

With the passing and implementation of NAFTA there has been a relaxing of traditional trade restriction with the US, Mexico, and Canada.

Question. Can you explain NAFTA's impact on the Customs Service, including workload?

Answer. While the goal of NAFTA to reduce trade barriers between the parties has been somewhat realized, the passage of NAFTA has not reduced the regulatory and enforcement workload of Customs. NAFTA has increased Customs workload primarily in two ways. Quantitatively, trade volume with Canada and Mexico has

increased markedly since the enactment of NAFTA. The table below shows this growth.

[Dollars in billions]

	1994	1995	1996
Value of Trade between the U.S., Canada and Mexico	$172.2	$206.6	$230.7
Change from previous Year (percent)		20	12
Change from 1994 Baseline (percent)		20	34

Land border traffic has increased approximately 25 percent from 1995 to 1996. In 1996 approximately 3.5 million trucks crossed our land borders with Customs inspecting over 900,000. Customs must process this increasing trade volume without significant increases in staffing.

Qualitatively, NAFTA has added additional complexity and regulatory activity to Customs workload because of the verification mechanism provided for in the agreement. A NAFTA verification is performed by the importing nation's customs administration to determine if goods claiming NAFTA preferential treatment qualify for this treatment. Verifications are principally conducted by written questionnaires and site visits. Customs sends questionnaires to the importer/producer who executed a Certificate of Origin or conducts a visit to the exporting country to ensure compliance with the appropriate "rule of origin." The procedures for these verifications are found in 19 CFR 181.71–76. The table below provides detail on the number of verifications Customs has performed to date.

NAFTA Verifications Performed	Actual			To date [1] 1997
	1994	1995	1996	
Canada	271	882	1,807	241
Mexico	128	411	646	109
Total	399	1,293	2,453	350

[1] As of 5/15/97.

Additional complexities result from the opportunity for importers to file for NAFTA treatment up to a year after date of importation if an entry has not been liquidated. This requires Customs to research entry documentation and perform additional verifications in order to determine whether any refund is due the importer (see 19 CFR 181.31). This provision is being used by an increasing number of importers as they become more experienced in operations under NAFTA.

The NAFTA Implementation Act includes a provision for establishing an academic center to focus on Western Hemispheric Trade.

Question. It is the subcommittee's understanding that there was $2.5 million for the Texas center and $2.5 million for the Montana center. Can you provide for the Record the status of the funding of each of these centers?

Answer. Customs fiscal year 1997 Appropriation (Public Law 104–208) contained the following provision: ". . . That of the funds appropriated $2,500,000 may be made available for the Western Hemisphere Trade Center authorized by Public Law 103–182". The Conference Report (Rep 104–863) to that legislation contained language stating that the conference agreement provided $2.5 million for the Western Hemispheric Trade Center.

Customs has no knowledge of any requirement to provide $2.5 million in fiscal year 1997 to the Montana center.

Question. If the funding has not been allocated to the centers, please provide the subcommittee information why the funding has not been allocated and what would need to be done in order for that funding to be allocated.

Answer. As of May 14, 1997, Customs is awaiting the submission of a budget proposal detailing how the funds would be spent from the Center at Texas A&M University. Once the Customs Contracting Officer approves the budget plan, the funds will be provided to the Center, via a modification to their current grant agreement, within 30 days.

AIR/MARINE PROGRAM

The Customs Service Air and Marine program is responsible for helping to detect, sort, track, and apprehend aircraft and vessels involved in smuggling.

Question. What are the current staffing levels of both the Air and Marine program?

Answer. The current Customs Air Interdiction Division has a total on board strength of 740 as shown below.

Current Staffing—Customs Air Program

Job category	*Number of personnel*
Pilots and Flight Engineers	322
Air Interdiction Officers	109
Detection Support Specialists	93
Field Management and Support	196
Headquarters Management and Support	20
Total	740

Current Staffing—Customs Marine Program

Job category	*Number of personnel*
Marine Enforcement Officers	91
Special Agents (certified to operate vessels)	80
Total	171

Question. Are the Southwest border and Miami areas staffed sufficiently to perform their role in the Customs Service interdiction efforts?

Answer. In light of a constrained budget environment, the Administration believes that Customs proposed staffing on the Southern border presents a balanced resource allocation and the Customs budget is well-crafted to realize long-term returns on investment in better tools and logistics for more efficient interdiction operations. We have made operational employment adjustments to maximize the effectiveness and efficiency of our existing Air resources. For example, sharing of the alert response commitment on a coordinated basis between field elements has allows Customs to cover more land areas with fewer aircraft and personnel—given the current threat assessment. The diminished airborne intrusion threat levels the past four years have enabled us to sustain a minimum deterrent posture. However, any resumption of large-scale domestic general aviation drug trafficking will call for a reassessment of these techniques.

Through funding associated with Operation Gateway, Customs received twenty-three additional marine enforcement officers to meet the growing marine smuggling threat in Puerto Rico and the Caribbean area. With this expanded enforcement effort in Puerto Rico, Customs has seen a rise in marine smuggling activity along the Southern tier.

Question. Can you provide the subcommittee the status of the retrofit of the P–3 airplanes the Customs Service acquired last year?

Answer. The two P–3s slated for retrofit were transferred to the Customs Service in March 1997, after being excessed from Department of Defense (DOD) inventory. Both aircraft have been removed from desert storage at Davis-Monthan Air Force Base in Tucson, AZ, prepared for flight and flown to Lockheed Martin Aircraft Center at Greenville, SC. There they will soon begin depot-level phased maintenance to prepare them for eventual modification to Customs P–3 AEW configuration.

Customs anticipates the signing of the contract modification with Lockheed Martin in September, 1997, with eventual delivery of the P–3 AEW aircraft in mid to late 1999. The Office of the Deputy Assistant Secretary of Defense for Drug Enforcement Policy and Support (DEP&S) received $56.2 million of the total $98.2 million appropriated for Customs P–3 AEW conversions. The balance ($42.0 million) was appropriated to the Office of National Drug Control Policy (ONDCP) which transferred the funds directly to Customs. After numerous discussions, DEP&S has agreed to enter into an Economy Act Agreement whereby Customs will contract for both P–3 AEW aircraft with Lockheed Martin with reimbursement from DEP&S. All retrofit program requirements, including spare parts and nonrecurring engineering costs, are included.

Question. Do you have enough personnel in the Air and Marine program to utilize your equipment sufficiently?

Answer. As we pointed out in our response to the question relative to staffing and performance in Florida and along the Southwest border, we have a sufficient number of personnel in the Aviation Program to man our equipment on the current schedule.

Customs currently has ninety-one Marine Enforcement Officers along the southern tier and eighty Special Agents that have been certified as vessel operators. The Special Agents are performing the role of vessel operator on a part-time basis to address the increase in marine smuggling events.

Question. How many P–3 aircraft will the newly requested P–3 hangar accommodate?

Answer. The second hangar bay will accommodate one aircraft. The additional hangar bay will be used for maintaining aircraft rather than storage. The existing hangar bay is used exclusively for mandatory, time-consuming heavy phased maintenance programs. The second hangar bay will permit indoor opening of fuel cells and other delicate (corrosion prone) areas of the aircraft, while protecting against the elements and related introduction of corrosion and damaging materials to these vital components.

Safety is also a critical factor in determining the need for an additional hangar. Maintenance operations utilizing bucket trucks, man lifts and forklifts in lieu of the more appropriate overhead hangar hoist are dangerous. The second hangar, like the existing hangar, will be used exclusively as a maintenance facility thus enhancing the operational availability of the P–3 aircraft and providing a safer working environment. In addition, a significant dollar savings will be realized by reducing corrosion damage and effectively extending the useful life of these aircraft.

BASE FUNDING

There is funding outlined in the budget request which indicated that the base is fully funded.

Question. Is your base fully funded?

Answer. Customs base funding is an aggregate of funding received in past years for a variety of purposes. An attempt is made each year to make the appropriate adjustments for "maintaining current levels," but occasionally these adjustments are insufficient to meet increased costs from one year to the next. The fiscal year 1998 President's Budget includes $29.0 million to address a funding shortfall for rent requirements associated with new headquarters and border facilities, $10.0 million for replacement vehicles, $5.735 million for Laboratory Modernization, and $4.0 million for agent relocation to correct these identified deficiencies.

Question. How many positions (FTE) are unfilled?

Answer. Customs currently has 210 vacant FTEs comparing our on-board strength with our FTE controls.

Question. What would it take to fill those positions?

Answer. The completion of hiring for fiscal year 1997 initiatives (Operation Hard Line, Gateway and, Counter-Terrorism) during the remainder of fiscal year 1997 will fill most of these vacant FTEs.

Question. Is the amount requested to maintain current levels accurate? What will all of this funding be applied to?

Answer. Customs is requesting a total of $42.3 million to meet its increasing obligations due to pay raises, benefits, agency contributions to the civil service retirement funds, and other expected increases in the cost of operations. Customs is also requesting $29.2 million to address a shortfall in the funding for its projected rent requirements in fiscal year 1998.

Of the total amount, the budget request provides for a $25.6 million increase to pay for the fiscal year 1998 pay raise for three-quarters of a year and annualize the fiscal year 1997 pay raise. Of the $25.6 million, $18.0 million is requested for the 2.8 percent increase in the fiscal year 1998 pay raise and $7.6 million is requested for the annualization of the fiscal year 1997 3.0 percent pay raise.

Customs is also requesting an increase of $9.8 million for benefits to pay the regular increases in the cost of retirement and health benefits, permanent changes of station, and worker's compensation.

Finally, Customs is requesting $6.9 million that is needed to fund other expected non-pay increases in the cost of Customs operations.

All of these amounts, except for Customs unique rent situation stemming from building relocations and facilities expansion, are generated centrally by Treasury using standardized factors and methodology.

Question. When President Clinton took office he issued Executive Order 12837 that mandated the reduction of administrative costs, as well as personnel over a four year period. fiscal year 1997 was the last year of the Order, will you continue to maintain the mandated reductions in fiscal year 1998?

Answer. The administrative reductions mandated by Executive Order 12837 have been maintained in Customs base funding requests. Therefore, with the exception of the recognized deficiencies in rent funding, vehicles, laboratory modernization,

and agent relocation that the fiscal year 1998 President's budget seeks to rectify, the out-year effect of these reductions will continue.

FISCAL YEAR 1998 BUDGET REQUEST

Commissioner Weise, the fiscal year 1998 budget request for Customs includes $1.1 million from the Crime Bill funding for the construction of canopies for inspection sites at outbound sites.

Question. Can you detail for the subcommittee what conditions Customs inspectors are working under such that they would need such protections?

Answer. The $1.1 million budget request for fiscal year 1998 is for the construction of outbound facilities that include canopies. Currently, very few land border ports of entry have facilities where outbound inspections can be properly conducted. Outbound inspections are often conducted on busy interstate highways where vehicles travel at dangerously high speeds, creating a safety risk for inspectors as well as the public. Outbound inspections are often rerouted to inbound facilities which creates both a safety and control concern. Administrative outbound offices are usually within inbound facilities, far removed from point of exit. Outbound inspection areas lack computer terminals with Treasury Enforcement Computer System (TECS), National Crime Information Center (NCIC), and Automated Commercial System (ACS) access increasing the difficulty of performing comprehensive examinations. The canopies will serve to provide power and lighting and protection from oppressive and inclement weather conditions for both staff and equipment. Currently along the southern border, inspectors are conducting outbound inspections in a climate that often exceeds 100 °F. The lack of cover also leaves the inspectors and public exposed when it rains.

In the fiscal year 1998 budget request, under the Performance Measures under the Tariff and Trade activity, there is a listing of "Customer Service (Trade)" on S&E p.29 item nine is "Open Protests Older than 1 Year"

Question. The Protests plan you have listed at 2,000 and actual at 7,316. Can you provide the subcommittee with information why there is such a large backlog of trade protests and how the Customs Service intends to get to the 2,000 backlog rate?

Answer. This performance measure is a count of protests that are not settled within a year of submission. 19 U.S.C. §1514 allows importers or interested parties to administratively challenge Customs decisions relating to imported merchandise. In addition, 19 U.S.C. §1520 (c) (1) allows a party at interest to petition for correction of a mistake in fact, clerical error, or other inadvertence not amounting to an error in the construction of the law. The total open protests for fiscal year 1996 were 7,316. This situation was the result of the increased number of protests filed as a result of NAFTA, which allows the importer to file a petition to request liquidation of an entry for a refund when duty-free treatment was not claimed at time of entry. This protest procedure provides for a payment of 8 percent interest on the duties paid by the importers, which is above bank rates, perhaps encouraging importers to delay requesting refunds up to a year from entry. A technical amendment to the law was put forward in an attempt to end this benefit. Although it passed (Public Law 104–295), importers have identified another avenue of successfully delaying protest resolution thereby continuing the interest collection.

The current number of open protests over a year old, 5,748, represents a 21 percent decrease. Customs strives to reduce the cycle time of protest processing by increased training, improved management controls, plus implementation of the Electronic Protest Filing program, an important component of the National Customs Automation Program (NCAP). The use of this performance measure has been discontinued after fiscal year 1996.

Question. Can you provide the subcommittee information on the number of work hours the new truck x-ray saves the Customs Service in a year?

Answer. To the inspectional personnel on the border, the truck x-ray is viewed as a tool, like the canine teams and other non-intrusive examination equipment, which can increase the quality of the inspections performed on commercial conveyances entering the United States. In addition, because trucks, trailers, and cargo are frequently physically examined, as well as x-rayed, the x-ray system is viewed as complementing, rather than actually replacing the physical inspection of the truck, trailer, and cargo. Because the x-ray system complements, rather than replaces physical inspections, any discussion of the number of work-hours saved by the x-ray system must be viewed cautiously, and in terms of "potential" work-hours saved.

The Cargo Search truck x-ray system that is currently in place in Otay Mesa, California can process, on average, 6 trucks per hour. The truck x-ray requires a minimum of three persons to operate the system at all times. The x-ray is used ef-

fectively to examine both unloaded and loaded trucks for false compartments; false front walls, roofs, and floors; and for concealments in the truck/trailer frame, tanks, tires and other parts of the conveyance.

If the system is operating at peak efficiency, with no down time, it would be able to process approximately 30,000 empty or full trucks and trailers per year. On average, three inspectors, working under optimum conditions, with no down time, can perform three 100 percent examinations each hour on empty trucks and trailers in Otay Mesa. Therefore, the truck x-ray allows a team of three inspectors to examine twice as many empty trucks as they could do without the x-ray, with comparable or greater assurance of the effectiveness of the exam. It is important to note that in fiscal year 1996, 45 percent of the incoming trucks on the southern border were empty.

The truck x-ray unit was not designed to penetrate the cargo of a loaded truck, therefore the x-ray system does not replace the devanning of loaded trucks when the inspectional personnel feel it is necessary. However, the system has discovered drug shipments in some low density commercial cargo shipments. The x-ray system can save time by allowing the inspectors to concentrate their efforts on specific portions of the loaded truck/trailer which appear questionable in the x-ray image.

Question. In fiscal year 1997, did the Customs Service receive funding to cover the mandatory pay raises or did it have to absorb the cost of those pay raises?

Answer. Yes, Customs received the requested funding to cover the fiscal year 1997 pay raise as well as other expected cost increases in its appropriation. This funding was partly offset by other reductions to the fiscal year 1997 President's Budget request.

Question. In the fiscal year 1998 request, S&E p. 45, there is a listing of fiscal year 1997's denied requests. Can you supply the subcommittee information on the rationale for the denial of each request?

Answer. The table on page 1143 of the fiscal year 1997 Conference Report (H. Rep. 104–863) constructs the fiscal year 1997 appropriation from the fiscal year 1996 enacted level. Those items requested in the fiscal year 1997 President's Budget and not included in the table were denied without comment.

Question. Is there a duplication of effort with the Customs Service lab and ONDCP and Department of Defense labs in the same areas?

Answer. It is assumed that the term "labs" implies the research, development and evaluation (RD&E) projects that are sponsored by Customs, ONDCP, and the Department of Defense (DOD).

There is very little duplication among the three areas due to the facts that the programs at each organization have different RD&E objectives, and that strong coordination exists among the three agencies. To the first point, Customs is a "user" of technology, and as such benefits from the external support provided by both ONDCP and DOD. Thus we are not cognizant of any duplication of efforts that might result in an overlap of programs, at least to the extent that it impacts our mission. The ONDCP technology programs that support Customs generally are more in the research area, and often end with a "proof-of-concept" demonstration. On the other hand, the projects that the DOD's Counterdrug Technology Development Program (CTDP) funds for Customs are less research oriented, and more toward the development and evaluation of prototype systems, primarily in the non- intrusive inspection area, that Customs cannot afford to develop or demonstrate on our own R&D budget. A good example of this is the gamma-ray imaging system, designed to inspect empty tanker trucks crossing the Southwest border for contraband hidden in the tank. Customs originated and initially funded the project, ONDCP provided major funding resulting in a proof of concept and prototype, and DOD is providing further funding for testing, evaluation, training, maintenance, and National Guard support for initial operational deployment under Customs direction.

There is also considerable coordination among the agencies. One example is that the program managers of Customs RD&E, CTAC (Counterdrug Technology Assessment Center), and CTDP meet monthly to discuss, plan and coordinate their joint programs of interest.

Question. Of the $15 million requested in fiscal year 1998 from the Violent Crime Reduction Trust Fund for the Anti-Smuggling, non-intrusive automated targeting systems, what portion of those costs are recurring and what portion of those costs are non-recurring?

Answer. The $15 million requested is for two separate initiatives: the first is $12 million for two higher energy, fixed-site non-intrusive inspection systems, and the second is $3 million for the expansion of the automated targeting system to high-risk land and sea ports of entry. In both cases approximately 90 percent of the funding requested is non-recurring. The out year operations and maintenance of these systems is approximately $1.5 million per year which will be recurred.

Question. In the fiscal year 1998 request, S&E p. 54 under the Direct Obligations Related to the Crime Bill, there are listed "Civilian personnel benefits" and "Benefits to former personnel". The VCRTF is to be used for non-recurring costs, therefore why does the Customs Service have continuing personnel benefits in this category?

Answer. The fiscal year 1998 President's Budget contains a request for $4.0 million to fund an Agent Relocation initiative from the Violent Crime Reduction Trust Fund (Crime Bill). According to OMB guidance, a portion of relocation expenses is paid in "Civilian Personnel Benefits" (object class 12).

"Benefits to Former Personnel" (object class 13) is a part of the standard display format, however, no obligations are shown in fiscal years 1996–98.

Question. What will the Customs Service do when the VCRTF funding runs out in fiscal year 1999?

Answer. Section 1900(e) of the Violent Crime Control and Law Enforcement Act of 1994 authorizes $125 million for appropriation to Treasury bureaus in both fiscal year 1999 and fiscal year 2000. During each budget formulation cycle, Customs and Treasury deliberate with OMB and ONDCP to achieve the most effective proposed allocation of VCRTF resources. This does not guarantee funding for Customs, and in fact, Congess did not appropriate any VCRTF funding to Customs in fiscal year 1997.

QUESTIONS SUBMITTED BY SENATOR KOHL

UNDER SECRETARY FOR LAW ENFORCEMENT

PROJECT OUTREACH

Background: Project Outreach is a voluntary program that involves partnerships with the local communities. All Treasury agencies are invited to participate by providing law enforcement agents to the program on a voluntary basis. According to Treasury's report on the program, Alcohol, Tobacco and Firearms is a major player in Washington D.C. and Customs is a large participant in the Nationwide program. It is my understanding this program is conducted with churches, boys and girls scouts and/or other organizations.

Question. What is the genesis of this program?

Answer. Project Outreach, which is aimed at reducing drug use and violence among teen-agers, was conceived of by a staff member of Treasury's Office of Enforcement in the summer of 1988. The idea was to encourage others in the community to become personally involved in the anti-drug effort, by setting the example of involvement by Enforcement employees. The original plan was for each Treasury Agent to make a presentation to a community group on drug demand reduction.

RELATIONSHIP WITH YOUTH CRIME GUN INTERDICTION INITIATIVE

Question. Is this program part of the Kids and Guns or Youth Crime Gun Interdiction Initiative?

Answer. Project Outreach is a Treasury-wide demand reduction program involving volunteer efforts by government employees. It is not part of the Youth Crime Gun Interdiction Initiative.

The Youth Crime Gun Interdiction Initiative, an ATF program supported by the Office of Enforcement, is a law enforcement demonstration project. Its purpose is to obtain information about the sources of illegal guns used by gang offenders and juveniles, to devise new strategies for interdicting that supply based on the information, and to strengthen law enforcement collaboration against illegal gun traffickers to young people. The Youth Crime Gun Interdiction Initiative is a component of ATF's national firearms trafficking strategy, aimed at denying illegal access to firearms to criminals, gang offenders and juveniles. (Kids and Guns is a nickname for the Youth Crime Gun Interdiction Initiative.)

PARTICIPATION IN PROJECT OUTREACH

Question. What is the level of participation by the Treasury agencies as a percentage of total staffing per agency and as indicated by the number of events held per major city?

Answer. There is no budget for this voluntary effort by Treasury Enforcement employees. Each agency has a Project Outreach liaison, that works with the Office of Enforcement, but these are not full time positions. Statistics on the number of events held per major city are not required to be maintained. Hundreds of dedicated Treasury Enforcement personnel volunteer their services in their communities. Indi-

viduals who make significant contributions to their community are recognized by receiving a Project Outreach certificate of appreciation.

TREASURY FORFEITURE FUND

Question. Last year the Treasury Forfeiture Fund gave $242 thousand to the program. What was done with these (limited) resources?

Answer. Project Outreach did not receive any funds from the Treasury's Secretary's Enforcement Fund authority. However, the Youth Crime Gun Interdiction Initiative did receive some funding from the forfeiture fund.

A total of $1.175 million in forfeited funds was authorized for the Youth Crime Gun Interdiction Initiative. Of this total amount, $344,000 was obligated in 1996. These funds were used for computer programming, computers, and training in connection with National Tracing Center tracing by the 17 sites participating in the project, as well as for some investigative costs supporting cases against illegal firearms traffickers.

COORDINATION AMONG YOUTH VIOLENCE EFFORTS

Question. What is the coordination between this program, the Youth Crime Gun Interdiction Initiative, GREAT, DARE, Project LEAD and other children education programs?

Answer. There are instances where Project Outreach volunteers provide services to schools that have adopted the GREAT program. The Youth Crime Gun Interdiction Initiative, GREAT, and Project LEAD are complementary supply and demand reduction components of ATF's efforts to reduce illegal firearms access and gang violence among young people. Project LEAD and the Youth Crime Gun Interdiction Initiative are part of ATF's efforts to reduce the illegal firearms supply to criminals, gang offenders, and juveniles. GREAT is an ATF administered demand reduction program primarily focused on youth gang violence.

OFFICE OF LAW ENFORCEMENT

Background: Under Secretary Kelly, according to the Department of the Treasury's Strategic Planfostering a safer America is one of the Department's three key missions.

To ensure this mission is accomplished, resources are being requested in fiscal year 1998 to; combat violent crime, decrease the availability of illegal drugs and other contraband, protect designated officials, decrease financial crime and continue counter-terrorism efforts.

Treasury law enforcement efforts are funded at approximately $3 billion and employs over 29 thousand employees.

Question. Given the diversity of law enforcement activities funded within Treasury, please explain how your office coordinates these activities to ensure that: each impacted agency is aware of inter-related activities; that a duplication of services does not occur; and that adequate resources are provided?

Answer. Treasury's law enforcement activities are well coordinated. Each week the Treasury Enforcement Council, composed of the heads of the law enforcement bureaus, myself, and my senior staff, meets to discuss pressing issues such as policies, procedures, current investigations, and budgetary concerns. Various working groups established to assist the Treasury Enforcement Council meet regularly to discuss relevant topics including budgetary issues, resources, and cross cutting law enforcement issues. Additionally, each morning representatives of the bureaus meet with me and my senior staff to share information and to report on law enforcement activities.

In the field, many of our law enforcement investigations are undertaken as a part of multi-agency task forces. The use of task forces encourages the sharing of information and eliminates the duplication of efforts. Also, representatives from the various Treasury law enforcement bureaus and the Department of Justice are members of each Treasury bureau's Undercover Review Committee. These Committees review and authorize proposed undercover investigations. Coordination is furthered by the sharing of intelligence through centers such as FinCEN, EPIC and NDIC. Cross checking of targets and investigative activities is also accomplished through a network of case query information systems. These systems act as a wide area network that, with one telephone call, allows access to various law enforcement databases by federal, state, and local law enforcement officers.

Question. The Office of Law Enforcement is also responsible for facilitating communication with other law enforcement Departments, such as Justice. What format exists for coordinating inter-departmental law enforcement activities?

Answer. Deputy Secretary Summers and I regularly meet with the Deputy Attorney General to discuss law enforcement issues of concern to the two departments. Additionally, my staff speaks with representatives of the Department of Justice virtually on a daily basis on a variety of issues. I meet with the heads of other law enforcement agencies, such as the Director of the FBI, as necessary to ensure that our bureaus are working together effectively. My staff and I participate in a number of interagency law enforcement meetings and committees including those relating to the Southwest border and white collar crime issues. The Treasury and Justice law enforcement bureaus also participate in a joint working group to develop law enforcement policies and procedures.

Question. Has the Office of Law Enforcement provided a bottom-up review of the overall resource allocations and made a determination on requirements based on programmatic requirements?

Answer. Last fall the Office of the Under Secretary Enforcement conducted an organizational assessment of Treasury enforcement's policy oversight staffing needs that were deemed essential to discharge its mission and duties more effectively.

Although there was no bottom-up review of the overall resource allocation, the staffing assessment did quantify the additional salary and benefits that would be required if the Office was restructured in an optimum manner. As an aside, compensation (salary and benefits) represent about 72 percent of current budget allocations. The residual (non-pay) represents travel, contracts, equipment, supplies, etc.

FINANCIAL CRIME ENFORCEMENT NETWORK

INTERNATIONAL FINANCIAL CRIME

Background: I recently read in the LA Times that several developments are making it easier for corrupt businesses and organized crime groups to carry on their activities such as:

—The globalization of the economy (increasing the monetary stakes of corruption).

—Technological developments (making it easier to hide criminal activity and dirty money).

—The weakness and instability of governments in many parts of the world (leaving them unable to raise revenue, protect border, and keep criminal elements from infiltrating legitimate institutions).

—And, the flight of capital to offshore banks (allowing them to avoid taxation).

Question. How has the trading in international currency exchange grown over the past five years?

Answer. Trading in international currency markets, often called foreign exchange trading, has continued its steady growth, and exceeds currently one trillion dollars per business day. Much of this trading involves the U.S. dollar as it continues to remain the world's leading currency. The growth in foreign exchange markets is closely tied to: 1) the globalization of international markets; 2) growth in imports and exports, especially in rapidly developing regions, such as Latin America and South East Asia; 3) the lowering of entry costs to market penetration, by reduced tariffs, and the loosening of many nations' currency exchange controls; and 4) increasing emphasis by many developing nations on achieving a more stable monetary policy, which lessens dollarization of their economies, and furthers continuous foreign exchange transactions.

Foreign exchange trading for major currencies which historically in the past was often dominated by a central bank or governmental operations is now primarily dependent on market forces. As such, the foreign exchange markets are largely driven by non-governmental supply and demand factors, such as those described above. In addition, the foreign exchange markets have developed ever more efficient mechanisms by which to hedge currency risk for market participants through the use of futures, options, and similar derivative instruments. This lower risk, in turn, permits smaller market participants to participate in foreign exchange transactions, and has led to an increase in foreign exchange transactions. This greater efficiency has resulted in cost reductions for many importers and exporters.

Of course, the exchange of currencies can occur at many levels of an economy, and the legitimate needs of businessmen for United States currency, given the dollar's status as the primary international reserve currency, can provide opportunities for money launderers. FinCEN's intelligence analysts have been working for some time with investigators to understand the role of "parallel" or "black market" currency exchange systems. Such systems develop in reaction to the exchange controls involved, and inflated exchange rates often charged in official exchange rate systems. The demand for market-rate dollars rises as legitimate trade increases; money

launderers have an alternate source of dollars (the proceeds of narcotics transactions in the U.S.) at their disposal, and they can satisfy the demand for market-rate dollars in the black market while at the same time effectively laundering their funds through the brokers to whom others go to buy such dollars.

Question. Over that same period, what percentage increase have you seen in international financial crime?

Answer. The most positive developments of the last half-decade—the fall of the Soviet Union, globalization of trade, and the stunning growth of technology have provided a basis for the expansion of large-scale organized criminal enterprise. Few accurate statistics are available, but the view that the growth of international organized crime poses a serious threat to the evolution of the global marketplace and to the evolution of democracy in, for example Russia, reflects the consensus of most observers.

Question. Have you noted any decrease in financial crime that could be attributed to FinCEN's efforts to curb illegal financial activity?

Answer. Government efforts to curb illegal financial activity—in which FinCEN is an active participant—have made significant progress in recent years. The evidence indicates that the cost of money laundering is rising, as is the complexity of money laundering schemes, as the government's knowledge of money laundering and the sophistication of its anti-money laundering policies have increased. The advent of suspicious activity reporting and the increased awareness of banks that they are responsible for understanding enough about their customers' activities to be able to tell what activities ought to raise suspicion, are encouraging. FinCEN hopes through recently proposed money services business rules, to improve compliance standards in the non-bank segment of the financial sector. Attempts to disrupt the "money laundering systems" that the cartels and their allies use can be expected to increase over the next two years.

CRIMINAL REFERRALS

Background: FinCEN is responsible for gathering various forms of financial information filed with financial institutions, as required by the money laundering regulations. Based on this data, FinCEN, a non-operational agency, evaluates money laundering threats, supports law enforcement agencies and implements the Bank Secrecy Act. FinCEN, as a result of agency generated criminal referrals, also provides law enforcement agencies with the appropriate financial information, to assist in the agencies criminal investigations.

[Clarification: Based on the introduction above, we interpret the Committee's use of the term "criminal referrals" to mean requests for case support from law enforcement.]

Question. How many criminal referrals did FinCEN receive last year?

Answer: In fiscal year 1996, FinCEN received 7,530 requests for case support. (This number does not include the requests from state and local law enforcement agencies which came through the Gateway system.)

Question. How many were from Treasury agencies? Which agencies are they from?

Answer: In fiscal year 1996, 1,932 were from Treasury agencies.

Agency	*Number of cases in fiscal year 1996*
Bureau of Alcohol, Tobacco and Firearms	761
Internal Revenue Service	413
Office of Foreign Assets Control	302
US Customs Service	285
US Secret Service	29
Department of Treasury (Inspector General)	16
Office of the Comptroller of the Currency	5
Task forces with Treasury representation	121

Question. How many of these referrals was FinCEN instrumental in solving?

Answer. FinCEN does not maintain statistics on the number of instances that our case work leads to the arrest or prosecution of criminals. It is important to note that successful investigations are often made up of a variety of influential factors, rather than just one. FinCEN's services are usually requested very early in the investigation. The information may be vital to a case, and along with other investigative information (informant contacts, for instance), find its way into a long-term financial investigation requiring years to fully develop. Financial cases, by their very nature, are extremely complex and take a great deal of time and effort to investigate. By the time the case reaches the arrest or prosecutorial stage, a connection to FinCEN's case work may be difficult to determine.

FinCEN may add value to the investigative process in another way. The information provided by FinCEN may indicate to the agents that an investigation should be dropped because it is insignificant and that resources should be directed to other more important areas. (Thus, there would be not an arrest or prosecution statistic, but the information serves a useful purpose in that it helps investigating agencies allocate their resources more effectively.)

FinCEN reports also are used to substantiate information from other law enforcement agencies supporting an investigation. Financial cases are complex, as stated above, and evidence which reinforces other information is very useful to investigating agencies. In this same regard, FinCEN's "network" approach allows it to bring together agencies which are conducting parallel investigations on the same criminal organizations. For example, an ATF office in one midwest city was investigating subjects who were also being investigated in a southwest USCS office. Both agencies had submitted a FinCEN request and were unaware they were working the same subjects until notified by FinCEN. Both case agents were subsequently put in touch with each other and viewed the information as helpful to their investigation. This network approach enables the agencies to coordinate their investigations and thus avoid duplicative effort and resources.

FinCEN does not and has not taken credit for investigative work carried out by others. FinCEN's philosophy about its mission is simple—it is a support agency, providing assistance when needed to investigative work conducted by federal, state, and local law enforcement. Its service may be requested at the beginning of an investigation, during the investigation, at the very end of one or quite possibly, multiple requests could come to FinCEN during the course of an investigation. Viewing this support service as its role in the law enforcement community, FinCEN would be uncomfortable at the very least to take credit for arrests and prosecutions which may have been the result of information provided by us. Furthermore, the law enforcement community is a very competitive area; adding FinCEN to the mix by taking credit would serve no useful purpose. In fact, it would probably do more harm than good by alienating our customers. FinCEN's state-of-the-art resources, as previously described, provide information which may otherwise be unknown or unavailable to field agents. If agents feel that requesting assistance from FinCEN will result in a "sharing of the limelight," it could very well reduce the number of incoming requests to FinCEN, thereby lessening the quality and quantity of information available to the case agent.

Evaluating Work Products and Feedback

This philosophy does not mean that FinCEN does not have systems for gauging the value of its work product. The reports going back to the investigators include a "feedback" form requesting information on the value of the product. However, only about 20 percent of the forms are returned to FinCEN. To supplement this effort, FinCEN periodically undertakes on-site visits, as well as telephone surveys with its customers to determine the value of its work products. (In the most recent survey, most users expressed general overall satisfaction with FinCEN's services with several respondents offering constructive suggestions which have been implemented.)

Efforts to monitor the usefulness of FinCEN's products also involve a tracking system. Under the system, follow up contacts are made with investigating agents on significant cases (those which appear to involve significant number of businesses, assets, and currency transactions) at intervals of three, six, twelve, and twenty four months. The follow-up contacts are designed not only to provide information about subsequent developments, but equally important, to assist FinCEN in appropriately allocating its resources.

In addition, the Treasury Law Enforcement Liaison Committee, created by FinCEN, meets quarterly to coordinate and focus the needs of customer agencies in Treasury. It is used to air specific issues relating to agency requests.

Question. How does FinCEN prioritize the investigative requests? Who sets the priority list?

Answer. As a rule, FinCEN's prioritization of cases is on a first-come, first-serve basis. There are, however, exceptions to this rule which require FinCEN to take immediate action on certain types of cases. When deemed appropriate (when a need really exists due to issues of national security, critical stages of investigations, court appearances, grand jury presentations, and on-site case support for an agency), immediate attention is given to a request.

Question. Could you explain the similarities and differences between your system and the Justice Department National Drug Information Center? Is coordination and or data sharing between these two systems?

Answer. FinCEN and the National Drug Information Center have worked together over the past year to find a common ground which will enhance mutual as-

sistance. FinCEN is a tactical intelligence support center which provides information relating to specific law enforcement case work. We provide information gathered from BSA data, commercial database information, and law enforcement databases. Our support is wide-ranging and deals with all types of financial crimes, not just narcotics.

NDIC is mandated to provide strategic intelligence relating to international drug trafficking and narcotics law enforcement. They support law enforcement through the issuance of long-term project papers with the purpose of advising senior law enforcement executives of trends and patterns in worldwide narcotics trafficking. NDIC does not provide database queries in response to specific requests, but rather, long-term analytical work products which are valuable to the law enforcement community as a whole but do not address specific case-related issues. FinCEN and NDIC regularly exchange information relating to specific narcotics and narcotics money-laundering issues. FinCEN was recently responsible for giving NDIC a major south Florida money-laundering database.

FINCEN DATABASE ACCESS

Background: I recently read Grover G. Norquist's (President of the Americans for Tax Reform) statement to the House Judiciary Committee at the hearing on "Security and Freedom Through Encryption." In that statement he said:

"The government has tremendous information resources at its disposal in data base centers, like the Financial Crimes Enforcement Network (FinCEN). FinCEN has literally everything there is no know about you—tax records, postal addresses, credit records, banking information, you name it—and if more taxpayers knew about if, they would be outraged."

Question. Is Mr. Norquist correct? Does FinCEN have access to all of this information? If so, what protections are being offered to ensure that this information is not being viewed randomly? Is there oversight for unauthorized access to information?

Answer. Mr. Norquist's statement is incorrect. FinCEN has access to information filed under the Bank Secrecy Act (which it administers), pursuant to Congressional directive and implementing rule. It also has access to certain law enforcement information in the files of other federal enforcement agencies (for example the Customs Service and DEA), and to information that is sold by commercial vendors, both to government agencies and private buyers; much of the latter information is computerized public record information (for example, land ownership files).

FinCEN has no access to income tax data of any kind, in accordance with the terms of section 6103 of the Internal Revenue Code (except for disclosures made by investigating authorities to obtain further information, as permitted by section 6103(k)(6)). The only tax records to which FinCEN has access are property tax records of the kind that any citizen may view in any courthouse. It has no access at all to credit records, which are generally available only upon issuance of a judicial order or a grand jury subpoena for the information, see 15 U.S.C. 1681b(1). FinCEN does obtain from credit agencies certain basic identifying information for individuals as permitted by the Fair Credit Reporting Act; 15 U.S.C. 1681f. Finally, it has no general access to banking records but only to reports of large currency transactions and suspicious activity.

(Although somewhat beside the point, it is also relevant that FinCEN's resources are generally used to assist in enforcement of criminal law and almost never simply for civil tax collection purposes.)

Nonetheless, it is true that the information to which FinCEN does have access requires careful protection to assure that it is used only for permitted purposes to assist law enforcement and regulatory officials. As indicated more fully below, FinCEN has worked, since its beginning, to protect access to the information it holds, to oversee the activities of its employees, and, above all, to prevent misuse of the information with which it is entrusted.

Question. What protections are being offered to ensure inside and outside computer users are not reviewing this very private information?

Answer. FinCEN's "network" has been carefully built, since 1990, through the institution of information use, security, and dissemination policies. These policies are embodied in a number of written documents, in FinCEN internal procedures, and in the terms of a series of memoranda of understanding that govern FinCEN's access to information obtained from other government agencies. The policies define the parameters within which FinCEN works and are designed to protect and compartmentalize information, and to channel that information only to authorized uses.

The policies may be summarized as follows:

1. *Need-to-Know*.—No information may be read or used by a FinCEN employee who does not have a need to know the information for the performance of his or her duties.

2. *Ownership*.—Each agency is deemed to "own" the information derived from its files (unless such information was itself identified in that agency's files as belonging to a third agency), even after the information is incorporated into a FinCEN report or data base. Thus, each bit of information must be tagged in FinCEN's files to assure that it is used only in accordance with the rules or policies governing its use in the hands of the owner-agency. Information obtained from commercially-available sources is treated as subject to the statutes, if any, to which it is subject in the hands of the companies from which it is derived.

3. *Owning Agency Approval*.—No bit of information may be disseminated by FinCEN to a third agency without the explicit and in most situations case-by-case approval of the owning agency. This policy applies not only to information sought to be included in case reports but also to information obtained from another agency and integrated into FinCEN's own files.

4. *Electronic Access by FinCEN*.—Generally, information is not downloaded wholesale into FinCEN's data bases. Instead, FinCEN has electronic access to the information for use on a case-by-case basis, in part, so that its use of information drawn from other government data bases can be more carefully tracked and the controls placed on the information by the owning agency more carefully observed.

5. *Electronic Access to FinCEN Information Sources*.—No agency is permitted electronic access to FinCEN itself, in view of the multiple sources of information commingled within FinCEN and the desire to minimize the risks of unauthorized entry into or use of FinCEN's data network. BSA information is electronically available to state enforcement agencies and to some state banking agencies, under rules similar to those described above, through FinCEN's "Gateway" program. The "Gateway" connections run not to FinCEN itself, but to the Detroit Computing Center of the Internal Revenue Service where the files of BSA information are maintained.[1]

6. *FinCEN Platform*.—To assist with FinCEN's growing workload, and in accordance with its mission, FinCEN has made BSA and commercially purchased information available to employees of other agencies who come to FinCEN to perform restricted queries for their agencies. Agencies involved include the Federal Deposit Insurance Corporation, the Air Force Office of Strategic Investigations, and the Office of the Inspector General of the Department of Agriculture (for investigation of fraud against the Department's Food Stamp and other programs).

Under these policies, FinCEN serves both as a source of analysis and as a sort of "electronic information lock" through which different agencies can interact. Each bit of information must pass through the legal and policy "screens" of both its owner-agency and FinCEN before that information is disseminated to a third party.

FinCEN's intelligence reports, which contain information drawn from FinCEN's various sources, are indexed and used within the parameters of a system of records created in accordance with the terms of the Privacy Act of 1974, 5 U.S.C. section 552a (the "Privacy Act"), and known as the "FinCEN Data Base" (Treasury/DO .200).[2] The "system of records notice" for the FinCEN Data Base was published in the Federal Register on July 24, 1990, (55 Fed. Reg. 30074–75) and has been republished several times since. The FinCEN Data Base has been exempted by rule from various provisions of the Privacy Act by the Secretary of the Treasury, as permitted by the Privacy Act, for data bases created for law enforcement purposes.

The procedures through which FinCEN acquires and shares information from and with other agencies, outlined above, have been designed to assure compliance with the Privacy Act. Information sharing agreements with state law enforcement agencies are subject to both federal law and whatever state privacy statutes apply to the records from which the information is drawn. Information used by FinCEN is also subject to other legal restrictions in particular cases. Thus, as indicated above, information may be subject to the Right to Financial Privacy Act, 12 U.S.C. section 3401, *et seq.*, the FCRA, the limitations of section 6103 of the Internal Revenue Code, or the specially restrictive terms for the use of information obtained in proceedings before grand juries in federal court, see Fed.R.Crim.P. 6(e). Judicial doctrines may also

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[1] The Suspicious Activity Reporting System, which joins the five financial institutions supervisory agencies, FinCEN, and a number of other federal and state enforcement agencies electronically to reports of suspect activity at depository institutions, is also a separate, stand alone system, run through the Detroit Computing Center.

[2] Federal agency data bases from which information is drawn are for the most part subject to their own "system of records notices" under the Privacy Act, to the extent those data bases contain indexed information that relates to United States nationals. FinCEN only accepts data upon affirmation from the supplying agency that the exchange is consistent with the terms of the Privacy Act.

restrict the uses of information in related investigations, and FinCEN may be barred altogether from using certain information because of statutory restrictions or agency practice.

FinCEN tracks each identifiable "bit" of information to assure that the use and dissemination of that "bit" is consistent with applicable legal rules. FinCEN's internal accounting systems are being built to provide a detailed audit trail of the use of each record and the information within that record. When a FinCEN agent or analyst retrieves data for use in a report to be prepared for another agency, he or she should be able to ascertain with precision the source of the data and the restrictions attached to that data's subsequent use. (In addition, as noted above, FinCEN's access to information is also logged within the various record systems, for example the Treasury Enforcement Communications System, to which FinCEN is connected.)

These policies, and the complexity of FinCEN's mission, place a great deal of responsibility on FinCEN's employees. All of those employees must successfully complete a full field background investigation, and the majority hold various levels of national security clearances. Perhaps even more important, FinCEN's training and management systems are designed to protect information from unauthorized uses.

Protection against unauthorized information use starts with the management of the analytical process itself. Agencies may request information from FinCEN only upon a clear specification of the purpose of their request. This requirement assures both that agencies owning information understand to whom it is being disseminated and that FinCEN analysts and reviewers can judge whether the requested use of the information is permissible under federal law, even before the availability of particular bits of information is determined. In addition, the computer work of FinCEN employees is carefully tracked and monitored to assure against misuse of information or unauthorized "browsing" in information files.

GAXIOLA-MEDINA MONEY LAUNDERING INVESTIGATION

Background: According to a March 20th Wall Street Journal article, it was indicated that the Deputy Secretary of Treasury was concerned over the failure of the Mexican Government to freeze the bank accounts of a suspected drug trafficker.

The case spotlights on the Gaxiola Medina family, which runs a lumber distribution business in Northern Mexico. A federal grand jury in Detroit indicated that a member of the family ran a drug trafficking organization distributing more than 2,200 pounds of marijuana in the U.S., beginning in 1992.

The U.S. Customs Service began investigating this case in April 1996. U.S. agents contacted the Mexican Finance Ministry Officials who traced $184 million in deposits in 15 Mexican bank accounts. On January 8th, a freeze was placed on the accounts, but when the money was frozen by January 20th, only $16 million remained.

However, the New York Times article on April 2nd, said that the U.S. erred in seeing any corruption in this case and the $184 million thought to be in the accounts was a mistake.

Question. Was FinCEN part of this investigation? What actually occurred?

Answer. No, FinCEN was not part of this investigation. The Office of Enforcement and the U.S. Customs Service would be better able to address questions related to this case.

Question. Would systems like the FinCEN data bases and their Suspicious Activity Reports prevent this type of activity from occurring?

Answer. Since FinCEN was not involved in this investigation, it is impossible to know if or how its systems would have served this case. FinCEN defers to the U.S. Customs Service and Office of Enforcement on this matter.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

INS/BORDER PATROL TRAINING AT CHARLESTON NAVAL BASE

Background: Currently, a portion of INS/Border Patrol training is being conducted at the recently closed naval base in Charleston, South Carolina. This was a temporary measure to meet the training and staffing goals associated with reinforcing our borders. This Charleston initiative was scheduled to expire at the end of fiscal year 1999, when all training would move back to the FLETC-Glynco. Recently, there has been some discussion to maintain the Charleston site as a permanent training facility for INS/Border Patrol training.

Question. What is the position of the Justice Department, which is currently funding all of the satellite training occurring at Charleston, with regard to turning this site into a permanent training facility for the Border Patrol training?

Answer. Senior Justice Department officials consistently have expressed the view that they fully support the concept of consolidated training and participation in the FLETC. Their view is that the Charleston site should be kept open only as long as the need exists. They have expressed confidence that as the FLETC's capacity continues to increase over the next couple of years, the Immigration and Naturalization Service (INS) will be able to phase down the temporary Charleston operation and move completely back to existing, permanent FLETC centers. While no date has been firmly set for the closure of Charleston by Justice, they have clearly stated the intention to do so, and have urged the continued funding of the facilities Master Plan for the FLETC so that INS/Border Patrol training requirements can be met at Glynco and/or Artesia as quickly as possible.

Question. What is the position of INS and U. S. Border Patrol (USBP)?

Answer. The top leadership officials of the INS have expressed the same position regarding the temporary nature of the Charleston site as noted above by the Department of Justice. The USBP is a subordinate organizational element of the INS, and it is presumed the USBP's position is consistent with the INS and Department of Justice view.

Question. If this facility was declared as another permanent training site under FLETC's administration, what additional upgrades and improvements would be necessary to bring Charleston up to your permanent training site standard?

Answer. The FLETC has had extensive experience in developing sites for Federal law enforcement training. In addition to its permanent sites at Glynco, Georgia, and Artesia, New Mexico, the FLETC operated a leased facility at Marana, Arizona from 1984 to 1990. Also, for a short period of time, the FLETC conducted training operations at Davis-Monthan Air Force Base, Arizona, and Fort McClellan, Alabama. The latter site operation was undertaken exclusively for overflow USBP training that could not be met on a schedule required by the INS during a major buildup that occurred in 1989. In each of these site adaptations, whether for permanent or temporary purposes, the FLETC has encountered different capabilities and constraints. But our experience has been that closed military sites usually have significant structural, environmental, and modernization issues. The FLETC does not have a detailed understanding of all of the infrastructure and related building factors at Charleston. If Charleston, as a former naval base, is similar to the deactivated naval facility that the FLETC found at Glynco in 1975, there are likely to be many costly improvements needed to effect a proper facility conversion for law enforcement training. It would be speculative as to what precisely is required in bringing Charleston up to the standard of a permanent FLETC site until a closer examination and the use of appropriate facility experts is undertaken.

Question. Can you provide a ballpark estimate of the upgrade cost and time needed for conversion?

Answer. The Justice Department recently shared with the FLETC its cost estimate to upgrade the facilities at the Charleston site. The estimates suggest that about $4 million more will be required to sustain Charleston until the end of fiscal year 1999, in addition to the $8 million funded to date. To sustain Charleston for an extended period, the cost would be about $40 million, and to consolidate a permanent Border patrol Academy at Charleston would cost an estimated $110 million. These figures do not include the annual operation costs for staff and administration support. The FLETC did not participate in the gathering of this data, and therefore, does not take exception to estimates.

Question. There is also the possibility that this facility would come under the administrative control of the Department of Justice, which could conceivably move to consolidate other Justice training at Charleston. Has there been any movement in this direction by INS or Justice? What costs would be associated in converting this site to a complete Justice/INS training facility?

Answer. In addition to the INS, other Justice agencies that participate in the FLETC include the U. S. Marshals Service, the Bureau of Prisons, and the Office of the Inspector General. Neither officials in the Department of Justice nor anyone in the FLETC, or its participating agencies, have suggested or recommended relocation to Charleston. The Justice agencies have, in fact, repeatedly voiced high satisfaction with the quality of training and the facilities at the FLETC centers. If all of INS training and the other Justice agency training, which are now a part of the FLETC, were to be consolidated into Charleston, the costs associated in converting the site for a Justice training center are likely to be significantly higher than the $110 million identified by Justice for a USBP site alone.

Question. Worse case scenario, what would the impact be on the FLETC if all the Border Patrol and INS training was shifted to Charleston?

Answer. The actual INS training, including the USBP, accounted for 39,142 student-weeks of training in fiscal year 1996 at the FLETC centers and Charleston.

The next highest number of student-weeks in fiscal year 1996 was for U. S. Customs Service training which was 9,196 student-weeks. The fiscal year 1997 figures are likely to be higher for the INS. The departure of INS/USBP training from the FLETC's centers would have a significant impact on the economies of scale that have been achieved over a very long history of consolidated training at the FLETC. Quite likely, the costs of operation and training at the FLETC centers would be increased unless the other Federal participating agencies were to fill the void created by INS's leaving. There are no indications now that these other agencies, alone or in the aggregate, would have that significant increase sustainable over one or more years.

Question. What additional impact on the FLETC would result if the Department of Justice shifted all of its departmental training to the Charleston facility?

Answer. Over a three-year period (FY 1994–1996), Justice Department training, in terms of student-weeks, was slightly over 51 percent of the training conducted at the FLETC. In the context of both students and student-weeks of training, Justice agency participation is significant to the cost benefits of consolidated Federal government-wide law enforcement training. The departure of Justice training from the FLETC concept would have serious, and likely irreversible, consequences to the notion of consolidated training from a philosophical, practical, and cost efficiency standpoint. Setting aside cost factors, the lynchpin for consolidation is the standardization, high quality training, and cooperative interaction that comes from Federal law enforcement agencies sharing in the same common training experience.

Question. How would the loss of this training commitment to the FLETC impact on your current funding requests?

Answer. The loss of INS/USBP and/or Justice Department training commitment to the FLETC would greatly diminish the cost savings currently recognized in consolidated training. Daily lodging, meals, equipment, administrative support, and tuition costs would rise, probably quite dramatically. Although we cannot provide an estimated figure at this time, the maximization of facilities and the volume of programs would drop significantly. There is a real potential that higher costs would cause agencies, particularly small ones, to schedule less training. In austere budget reduction periods, often the items first cut in a budget are training and travel. Conversely, the FLETC will still need capital funding as the requirements for environmental compliance alterations and training program changes are implemented regardless of Justice agency participation at Glynco and Artesia. If enacted, as requested, the fiscal year 1998 appropriation for facility work at the FLETC sites will reach the $80 million mark, but still be short of the $121 million currently identified for completed renovations and construction. While there will be ways to cutback on the new construction requirements, should the Justice agencies depart, the facility improvements and compliance with environmental regulations and some new construction will need to continue and be funded accordingly. At any rate, there will continue to be a need to provide funding for maintenance and annual operation costs. Furthermore, establishment of a separate facility at Charleston, or elsewhere, will create circumstances that will force needless competition for law enforcement training facility funding at a time when the Government is looking at greater cost reductions and consolidation.

Question. What are the high and low limits of your "economies of scale"? Specifically, at what level have you achieved the greatest economies of scale, and at what level is this inverted from the loss of training activity?

Answer. The economies of scale are very important in the contractual areas, especially the two largest contracts for food service and dormitory management. Both of these contracts are based on a sliding scale geared to the daily student population. Essentially, the higher the student population goes, the lower the cost on a per student basis. Typically, these contracts are based on intervals of 100 to 250 students. The greatest economies of scale are reached at the 1,250 to 1,500 student population levels and the costs increase dramatically when the student levels drop under 1,000. When populations in excess of 1,500 are experienced, the economies continue to increase at a decreasing rate, but clearly at a savings to the taxpayer.

Question. Should the INS/Border Patrol training initiative continue according to plan, with the Charleston facility closing as scheduled in fiscal year 1999, will the FLETC be able to meet the future training needs of INS/Border Patrol, in addition to its other clients, at the Glynco and Artesia facilities?

Answer. Yes, if the Master Plan funding continues to be appropriated. The Master Plan will provide all of the facilities needed to conduct training well into the 21st century for all of the FLETC's participating agencies, including the INS and Border Patrol.

Question. Since this is the site of the former Charleston Navy Base, are there any environmental hazards associated with the site? If the FLETC assumed permanent

control of the site, would the FLETC also assume the liabilities associated with any identified EPA hazards in the future?

Answer. The FLETC has not participated in any close review of the facility structures and prior land usage at the Charleston site. Rather than speculate as to problems that may exist at this former Navy shipyard, it would be prudent for the FLETC to engage appropriate environmental specialists for a formal study. Whether the FLETC, the Navy, the INS, or some other organization or mix of organizations, the government would be liable for environmental hazards uncovered later, should the FLETC assume permanent control of this site. Unfortunately, the experience at Glynco, a former Navy base built in the 1940's, is that the FLETC has had to bear the cost of major environmental cleanup ranging from asbestos covered structures to lead leeching into the soil from dirt berms built by the Navy for firearms use and continued in use by the FLETC. Over a period of the last 15 years particularly, the nature of environmental regulation has become increasingly more restrictive.

Question. Are there any environmental concerns that would potentially jeopardize the health and welfare of the students, instructors, and administrative support personnel assigned to the Charleston site?

Answer. As noted above, it would be premature to provide an assessment of environmental issues without more data being provided through an appropriate environmental study. It is our belief that INS and Justice are alert to potential environmental hazards affecting the health and welfare of staff and students and have taken appropriate precautions.

PROJECTED TRAINING

Background: In past years, the FLETC has overestimated its projections for training from 15 to 35 percent on any given year, from the numbers of personnel actually trained. These projections, historically, have been the basis for your requests for funding additional FTE's, operating expenses, and capital improvements.

The FLETC obtains the forecasted training requirements from its client agencies 18 months in advance of the actual training year. Often clients amend their anticipated training needs during this 18-month time period. This could account for some of the differences between the numbers actually trained versus the numbers originally predicted.

The FLETC's budget request is based on the projected number of students they will train.

Question. Could the FLETC supply amended training forecasts and budget projections based on the agency training budgets, included in the President's budget, when it is submitted to Congress in February?

Answer. Because of the limited amount of time available between the Office of Management and Budget's final decisions on the agencies' budget requests and the submission to Congress, it would be extremely difficult to provide amended training forecasts in early February. Since the FLETC trains 70 different law enforcement agencies, it would be necessary to obtain input from each of them to update the training projections. While an update could be provided, it would have to be after the President's budget is submitted when the participating organization has more definitive information.

Question. Can an agency cancel or reduce their training commitment? How much lead time must they provide the FLETC?

Answer. The participating agencies provide training estimates as to the number of students to attend the various programs conducted. The FLETC uses numerous factors, including the participating agencies' request, past experience, facility requirements, Congressional/Administration interest, etc., to determine the number of programs that will be conducted. Allocations or quotas are then made to each of the participating agencies at the start of the fiscal year. While an agency can conceivably cancel at any time, the FLETC requires that a minimum of 20 days' notice be provided so that other agencies can be contacted to use the unfilled slots. In reality, changes take place every day and the allocations/quotas constantly are adjusted to meet the demands and requirements of the clients. The FLETC strives to ensure that all programs are conducted with the maximum number of students.

Question. What agencies have presented the greatest problems in scheduling?

Answer. No single agency presents the greatest problem in scheduling. It seems to fluctuate as the large agencies have to address major initiatives that affect them, such as the Immigration and Naturalization Service is currently facing. In previous years, other agencies too have periodically experienced unprogrammed increases which have led to similar problems. While today it is INS, next year it may well be another agency.

Question. Can this committee assist you in correcting the problem?

Answer. The FLETC is not aware of anything that could be done at this point by the committee to help correct the problem.

FIREARMS TRAINING

Background: The FLETC currently provides firearms training to a great majority of the Federal law enforcement, either in a basic training program, an advanced training program, or the firearms instructor training programs.

Question. Does the FLETC include training for all of its firearms training programs on the safety and appropriate storage of weapons in the home? This specifically addresses the increase in the number of accidental discharges of firearms involving children in the homes of law enforcement personnel.

Answer. For several years all basic training programs included a two-hour block of instruction entitled, Off-Range Safety. This course outlined weapon handling off the range, in the office, among friends, and especially at home. Over the years, in Curriculum Review Conferences, the FLETC's customer agencies have phased out this course. The safety course taught to all basic training students outlined general firearms safety, with primary emphasis on the firing range, and weapon identification. Since then, however, as a result of the recent Presidential memorandum directing all issued Federal firearms to come equipped with a locking device, the safety course has been modified. The course now includes training on the use of safe gun-locking devices for the home.

Advanced training programs are comprised of students who have graduated from the basic program and are attending either follow-on training or a specific firearms training program. These programs are designed by a Curriculum Development Conference and are updated every three years. During these updates, the FLETC, along with the participating agencies, decide on a curriculum. Although these students would have received this type of home safety training in their basic program, it may or may not be included in the advanced training program, depending on the particular curriculum.

Question. Does the FLETC issue trigger locks to students receiving firearms training?

Answer. No. The Presidential memorandum applies to duty weapons being issued to law enforcement officers. The FLETC does not issue duty weapons; they are supplied by the employing agency. The FLETC provides weapons to students only for the purpose of practicing firearms training and survival skills on the firing range. All such practices are done under close supervision and the weapons never leave the range with the students. All training weapons are stored in gun safes in a secured and alarmed armory.

Question. What Federal law enforcement agencies are currently issuing and mandating the use of trigger locks and other weapons safety guidelines for storage of weapons in the home?

Answer. Although it would require a government-wide survey to be certain, we assume all affected agencies are complying with the Presidential memorandum on this matter.

Question. Do the Directors of each of the Bureaus present today believe that the trigger lock safety program is a viable one to reduce the numbers of accidental discharges of firearms, specifically by children in our homes?

Answer. Yes. The FLETC realizes that a law enforcement tool designed and issued for the sole purpose of employing deadly force is inherently dangerous and imposes a professional and personal responsibility. Consequently, we believe that any step directed toward home safety, and especially the safety of our children, is desirable.

Question. Are you in favor of agency policy mandating weapons safety guidelines for your gun-carrying personnel in their homes?

Answer. Yes. Although home safety is, to a large degree, common sense. The fact that children continue to be injured and/or killed by handling a (law enforcement) parent's firearm indicates that more can be done. We believe proper training, accompanied by proper equipment and agency policy, will go a long way to increase and enhance the home safety mindset of law enforcement officers.

NEW CONSTRUCTION

Background: The FLETC is requesting fiscal year 1998 funds to construct a new warehouse complex at the Glynco facility. The FLETC has a number of buildings on site that are currently being utilized for storage.

Question. What is the condition of the existing warehouse facilities at Glynco?

Answer. The existing warehouse facilities at Glynco are inadequate for the purpose for which they are being utilized. We presently utilize portions of four buildings

for warehousing at the Center and lease additional space at the Glynco Jetport. All four buildings used for warehousing at the FLETC are over 55 years old, and two of them are condemned and should not be used. The remaining two warehousing spaces are in one-story buildings that also house office space, various service contractors, and a shipping and receiving function. These other non-warehousing functions break up the space that is used for warehousing, thus making the warehouse areas less than desirable for storage purposes from both security, and size standpoint. None of the warehousing space on the Center is environmentally controlled, nor is it conducive to new and more efficient warehousing techniques. Consequently, the FLETC must lease additional warehouse space away from the Center grounds in order to meet its supplies and equipment storage needs.

Question. Are the existing warehouse facilities utilized solely for storage of equipment and supplies?

Answer. Yes.

Question. What storage alternatives currently exist in the community?

Answer. As was mentioned above, the FLETC has leased warehouse space off-Center in order to meet its warehousing needs. Although there is existing storage alternatives in the community, the warehouse operation could run in a more efficient and effective manner if it was housed all in one building and on-site.

Question. Is there a specific requirement for on-base versus off-base storage facilities?

Answer. The on-base warehouse facility should be constructed in close proximity to an entrance gate. The warehouse would become the centralized receiving point for all goods entering the Center. Goods would only have to be handled once. They could be taken off the trucks and placed in storage without having to be moved in a separate operation. The placement of the warehouse at a gate entrance would also eliminate the present safety problem of having heavy duty trailer trucks operating on the Center's internal roadways where our students walk.

Question. Should new facilities be acquired, what is planned for the current structures?

Answer. Two of the current structures are unsafe and should be demolished. The other two would be utilized as storage areas for the on-site agencies.

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

YOUTH CRIME GUN INTERDICTION INITIATIVE

Background: The gun laws in the United States are among the least restrictive in the developed world. The FBI estimates there are 250 million firearms in the country, that is one for every man, woman, and child. As a result, we should not be surprised that a February 7th Washington Post article stated that United States has the highest rate of childhood homicide, suicide and firearms related deaths of any of the world's 26 richest nations.

According to the article, the epidemic of violence that has hit younger and younger children in recent years, is almost exclusively confined to the United States.

On February 20th, the President went to Boston to outline a package of federal legislation aimed at deterring youth crime and to increase the severity of punishment. This package included initiatives costing $500 million to:

—expand the Brady law

—fund state and local government programs to hire additional prosecutors, who will focus in on gang and juvenile violations, and

—provide annual grants to localities to fund after school programs.

The President went to Boston to highlight the success that this City has experienced participating in the Youth Gun Crime Interdiction Initiative. This initiative requires the participation of Police Chiefs and prosecutors, who have been asked to supply the serial numbers and other characteristics of every gun seized form a juvenile committing a crime. It is my understanding that the data is used by ATF to trace the gun's origin of sale. Since all guns must have identification number and paperwork it is easy to trance these weapons.

Question. Is there a correlation between gun laws and childhood homicides?

Answer. In ATF's role in the fight against violent crime, it does not perform research that would determine whether there are correlations between gun laws and childhood homicides; however, under the Youth Handgun Safety Act, juvenile possession of handguns is illegal, with certain exceptions. ATF believes that effective enforcement of this and other of our nation's gun laws can reduce childhood homicide. ATF considered statistical information showing that the rate of juvenile homicide nearly tripled since 1985 in developing the Youth Crime Gun Interdiction Ini-

tiative as a component of the national firearms trafficking strategy. In addition, ATF has formed partnerships with the NIJ and academic community in an effort to gain additional information regarding effective enforcement of the Federal firearms laws. ATF is cognizant that this area is of great concern to America; however, it does not have the available resources, at present, to analyze guns laws and how they may affect childhood homicides. Information derived from the YCGII will allow ATF's investigative resources to better focus on illegal juvenile access to firearms.

Question. I am aware of Boston's participation in the Youth Crime Gun Interdiction Initiative. Can you explain why this program is a success?

Answer. The City of Boston participates in the YCGII as well as a multi agency initiative, the Boston Gun Project. To date, ATF has not conducted a formal evaluation of the Boston Gun Project that was funded by National Institute of Justice (NIJ) and in which ATF's Boston Criminal Enforcement Field Division participates. However, when ATF developed the YCGII, the Bureau examined how the Boston Gun Project worked, and tried to find ways its approach could be applied in other cities. The information pertaining to the Boston Gun Project contained in this response is based on information from ATF' Boston Field Division.

The Boston Gun Project appears to be a success because it has two major components that work together. First, it uses crime gun trace analysis, information that can only be obtained through ATF, and debriefing of arrestees about the illegal sources of their weapons to develop a picture of the illegal sources of supply of crime guns to juveniles and gang offenders. To assist in investigative use of trace information, ATF has developed and deployed project LEAD, an illegal firearms trafficking information system, to assist in using arrestee information, ATF has established a special agent position, the Violent Crime Coordinator, who is responsible, among other areas for channeling information obtained from debriefings of armed arrestees to agents developing trafficking cases. This special agent must be able to analyze investigative information, affecting defendants who are to be prosecuted, to ensure that the subject will receive the maximum time in prison. The VCC must determine if Federal or State prosecution is best suited for each defendant that he/she comes into contact with.

Based on this information, ATF in collaboration with the Boston Police Department and other law enforcement officials continue to improve the effectiveness of efforts against illegal traffickers in order to reduce the illegal supply of guns to violent young people and juveniles.

Second, under the Boston Gun Project, many different Federal State and local agencies, including ATF, DEA, the police department, probation, parole, and others, are collaborating in directly communicating to street gangs that violence will not be tolerated. When necessary, they back up these communications with coordinated, interagency enforcement actions against gangs that have committed violent acts. The interagency group approach appears to have convinced some Boston street gangs that violent acts will be met with immediate consequences, and thus effectively deterred them from participating in gang violence. This aspect of the Boston Gun Project was made possible by a strong coordination, funded by the National Institute of Justice.

ATF will be analyzing the effectiveness of the YCGII in the 1 year report which is scheduled to be completed in July 1997.

Question. How much of the success of this program is dependent on the community's involvement?

Answer. Both the gun trafficking prevention and the deterrence of gang violence in the Boston Gun Project are primarily carried out by Federal, State, and local law enforcement agencies. However, other important participants in this program are gang outreach workers, employed by the City of Boston, who provide various services to gang members and attempt to mediate gang disputes and community groups, such as Boston's Ten Point coalition which is a group of African American clergy. Additionally, other community programs may be involved in Boston; however, ATF's Criminal Enforcement is not aware of such initiatives.

Question. The Youth Crime Gun Interdiction Initiative has been piloted in 16 other cities including Milwaukee, Wisconsin. Have there been similar results in other cities participating in the pilot?

Answer. As in Boston, trace analysis and curbing the illegal supply of firearms are one component of the YCGII. ATF is presently analyzing the results of crime gun traces from each of the cities participating in this initiative. This analysis, which is the first of its kind to be reported by ATF, will provide law enforcement agencies participating in the initiative with critical information that may be able to assist them to develop strategies geared to reducing the illegal supply of firearms to juveniles and gangs.

ATF will publish the results of 10 months of trace analysis in all sites in July. Each YCGII site has unique characteristics that must be analyzed. Upon the completion of the report, law enforcement in each YCGII site will be better able to implement a successful strategy to address juvenile firearms-related crime. It should also be noted that the coordinated anti-gang activity involving all federal and local agencies that is present in Boston is not part of the YCGII, as this exceeds ATF's jurisdiction, other than as a participant ATF would be pleased to participate in any such coordinated anti-gang effort in any site.

Question. Is last week's seizure of guns and arrest of gun trafficker Lawrence Shikes in Milwaukee, an example of the effectiveness of this program? What can you tell us about this case?

Answer. The Lawrence Shikes case in Milwaukee, Wisconsin, is an example of the effectiveness of this initiative. There are a number of ongoing cases currently in many of the other sites. However, these cases are presently ongoing criminal investigations and as such, ATF is not at liberty to discuss them. At this time, ATF's nationwide illegal firearms trafficking strategy, of which the YCGII is a component, has produced over 2,000 illegal firearms trafficking defendants annually since the implementation of the Integrated Violence Impact Strategy in fiscal year 1996.

Question. How many programs and what is being spent annually to provide juvenile crime prevention programs nationally?

Answer. ATF is responsible for administering, evaluating, and expanding the GREAT Program. The GREAT Program is currently funded at $11 million of which $3 million is required for ATF to administer and oversee the program. The remaining funds are provided to local communities to support their participation in the program. Please refer to question 31 for additional information.

Question. Does the Youth Crime Gun Interdiction Initiative provide any grant money? Should grant funds be provided?

Answer. Neither the Treasury Department nor ATF possess the authority to provide grant money so none has been provided under the YCGII. Funding in the amount of $1.175 million was provided by the Department of Treasury, Executive Office for Asset Forfeiture. A breakdown of that funding is as follows:

—$550,000—To be used for investigative expenses such as evidence purchase, informant subsistence, purchase of investigative equipment, investigative travel, and other miscellaneous investigative expenses.

—$200,000—To be used for modifications to ATF's NTC's Firearms Tracing System and Project LEAD.

—$75,000—To be used for the purchase of 17 high speed, high capacity Pentium laptop computers.

—$300,000—To be used for research on crime guns to be performed by the National Institute of Justice.

—$50,000—To be used for mission travel related to training and support of the initiative participants and systems.

The YCGII sites were selected based on their demonstrated recognition of the problem of youth firearms violence and the desire for a coordinated effort; 10 of the 17 cities were already receiving funding from the Department of Justice's Office of Community Oriented Policing Services to conduct juvenile firearms initiatives; an additional 3 of the 17 cities already had a juvenile firearms research element in place through the National Institute of Justice; the remaining 4 cities had particularly active U.S. Attorneys.

Grant funds to police departments may be useful in assisting them to trace all crime guns and to identify violent gangs, groups, and individuals for potential investigative action. However, since crime gun tracing and illegal firearms trafficking cases require ATF's assistance, ATF cannot recommend grant funds that would support activities that are not proportional to ATF's resources to respond to them effectively. If grant funds are issued, it must be ensured that ATF can effectively meet the demand for its services by State and local law enforcement.

Question. I see you have not requested any funding for this initiative in the fiscal year 1998 request. Why not?

Answer. The YCGII was funded by the Treasury Department in July 1996 in response to the alarming rise in juvenile firearms violence. The funding was intended to provide ATF with the means to look at illegal firearms trafficking and how it affects juveniles separately and to produce crime gun trace analysis on a city-specific basis. Treasury's funding of the YCGII has supported computer upgrades, firearms tracing-related training, and law enforcement operations. ATF is now examining the results of the crime gun traces from the YCGII cities and finding that there are city-specific patterns of crime gun use by youth that differ from the patterns that typically characterize the adult populations crime gun supply. These preliminary results

are showing significant promise to reduce illegal juvenile and youth access to firearms violent crime through expanded YCGII initiatives.

YCGII cases are illegal trafficking cases that involve trafficking to juveniles and young people. Examples of the successes of the overall national firearms trafficking strategy are as follows:

Case example: In 1996, Project LEAD and firearms trace analysis alerted ATF special agents in Kansas City, Missouri, to potential illegal firearms trafficking activity being conducted by an individual. Information indicated that a number of firearms recently recovered in crimes, by law enforcement in several States, had all passed through this subject. Investigation revealed that over the course of 3 years the subject, a former Federally licensed firearms dealer, had illegally trafficked over 1,300 firearms of which more than 200 of those firearms were recovered by law enforcement from gang members and violent criminals after their use in crimes ranging from illegal possession to homicide. The subject was subsequently arrested by ATF, prosecuted in Federal court, and in September 1996, sentenced to 6 years in prison.

Case example: In 1995, Project LEAD and firearms trace analysis alerted ATF special agents in Greensboro, North Carolina, to potential illegal firearms trafficking activity being conducted by an individual. Information indicated that a number of firearms recently recovered in crimes, by law enforcement in several States, had all passed through this subject. Investigation revealed that over the course of 2 years the subject, a former Federally licensed firearms dealer, had illegally trafficked over 3,000 firearms of which more than 200 of those firearms were recovered by law enforcement in crimes ranging from illegal possession to homicide. The subject pled guilty to numerous Federal firearms violations and was subsequently sentenced to 34 months in March 1997.

Question. Even if you can effectively crack down on illegal gun trafficking, won't there still be some guns out there that potentially violent criminals, even kids, will have access to?

Answer. Yes, ATF's illegal firearms trafficking strategy and the YCGII are intended to address juveniles and the criminal element's access to firearms, especially new firearms, however, they cannot effectively address every illegal gun source. In addition to ATF's Illegal Firearms Trafficking Strategy, there are other initiatives to assist in removing guns from the criminal element. An additional firearms enforcement program is the Stolen Firearms Program which is an aggressive enforcement effort determined to reduce the amount of firearms stolen from interstate carriers and Federal firearms licensees. ATF research and data, based upon stolen firearms information contained in the Firearms Tracing System, reveal that stolen firearms, by their very nature, are destined to be crime guns. The criminal element, realizing that their ability to acquire firearms has eroded, sees stolen firearms as an instant source of untraceable crime guns.

ATF is committed to investigating thefts from FFLs in order to keep these firearms away from the criminal element. ATF believes that proactive measures such as better security measures at FFLs, the illegal firearms trafficking strategy, and the Stolen Firearms Program will reduce the criminal element's access to a large number of potential crime guns illegally diverted from legitimate sources.

In addition to focusing on crime guns that are new and can therefore be easily traced by NTC, ATF also investigates traffickers of older firearms, through debriefing arrestees and other investigative work.

Question. If this is true, aren't other strategies needed to prevent violent crime, like crime prevention?

Answer. Yes, effectively administered crime prevention programs can help. ATF has found programs such as GREAT and the Department of Treasury's Outreach Program to be useful to young people. In addition to traditional crime prevention initiatives, like G.R.E.A.T are enforcement strategies and projects that can have a prevention impact. For instance the illegal firearms trafficking strategy and YCGII are aimed at stopping the guns from getting to the criminal element, gang offender, and juvenile before a handgun is used in a crime or accident.

In addition, ATF has dedicated personnel as Violent Crime Coordinators (VCC). The VCC is responsible for proactively preventing violent crime. The VCC is responsible for the following duties through the position description for this job:

—Establishes threshold prosecution levels with the U.S. attorney's office to ensure only those cases which the U.S. attorney's office will prosecute federally are pursued by the VCC.

—Evaluates all firearms-related cases referred for prosecution by local, State, or other Federal agencies and determines which judicial system is best suited for that case based on the threshold levels of prosecution previously determined.

—Establishes effective liaison and working relationships with the various State, local, and other Federal agencies in the VCC's area of jurisdiction.
—Maintains the integrity of the Gun Control Act and the National Firearms Act by ensuring that each State of local officer, referring a case has met all the elements of proof, thus avoiding the chance of creating unfavorable case law.
—Gathers and exchanges intelligence derived from observed trends and from defendants.
—Ensures firearms from all referred cases are traced, thus enhancing the ability of Project LEAD to generate information on illegal firearms trafficking.
—In cities with CEASEFIRE Project capabilities, ensures firearms from all referred cases are test fired and that shell casings and projectiles are subjected to Integrated Ballistics Identification System testing thus enhancing the IBIS data base and increasing the likelihood of ballistic matches. Additionally, ATF utilizes the following strategies to address and prevent violent crime:
—The Achilles Project is a congressionally mandated enforcement program that utilizes two tough Federal statutes (18 U.S.C. §§ 924(c) and 924(e)) to remove from society those armed career criminals, armed narcotics traffickers, and other violent offenders who are responsible for a disproportionate percentage of this Nation's violent crime. These statutes require mandatory/minimum terms of imprisonment for all individuals convicted for armed narcotics trafficking. There are Achilles task forces located in 20 cities nationwide that consist of ATF special agents and inspectors and other Federal, State, and local law enforcement officers. This program has resulted in the arrest and successful prosecution of numerous armed narcotics traffickers and other violent offenders.
—The NTC traces firearms for law enforcement agencies both domestically and around the world. The NTC is the only source for information pertaining to the tracing of firearms in the United States. During fiscal year 1996, the NTC traced in excess of 134,000 firearms.
—ATF's Firearms Trafficking Project is a comprehensive strategy to interdict the flow of firearms to the criminal element, including narcotics traffickers and violent offenders. Using computer technology to access data from ATF's NTC and the Stolen Firearms Program, ATF addresses illegal firearms trafficking by identifying the illegal source of the firearms to the criminal element. Through this program, ATF is able to impact upon narcotics traffickers' ability to acquire firearms in furtherance of their illegal activity.
—Stolen Firearms Project which is an aggressive enforcement effort determined to reduce the amount of firearms stolen from interstate carriers and Federal firearms licensees. ATF research and data reveals that stolen firearms, by their very nature, are destined to be crime guns. The criminal element, realizing that their ability to acquire firearms has eroded, sees stolen firearms as an instant source of untraceable firepower.
—The CEASEFIRE Project provides support to law enforcement agencies in areas of the country experiencing serious organized criminal gang and drug-related shooting incidents. Currently, ATF is utilizing a state-of-the art system that allows firearms technicians to digitize and automatically sort bullet and shell casing signatures and aids in providing matches at a greatly accelerated rate. The equipment expeditiously provides Federal, State, and local criminal investigators with leads to solve greater numbers of crimes in a shorter period of time.

G.R.E.A.T. PROGRAM

Background: The Gang Resistance Education And Training (GREAT) program provides grants to communities that are participating in and encouraging the prevention of violence. The program, taught by uniformed officers, so far has provided training to over 2 million children, enrolled in seventh and eighth grade.

GREAT is currently running in 54 locations in 21 states.

Question. Director McGaw, the G.R.E.A.T. Program looks promising, why should we continue its funding? How can we qualify G.R.E.A.T as a successful program for future expansion?

Answer. Youth gang violence is still a major concern for law enforcement in the United States. The G.R.E.A.T. Program provides a major step forward in helping school age children develop life skills which improve their social behavior.

The G.R.E.A.T. Program is managed by a partnership representing all levels of law enforcement—Federal, State, county and city. This management team was assembled to make sure that the needs and concerns of the community and law enforcement are given consideration, and to provide the program the best possible leadership. Following established organizational development and leadership prac-

tices, G.R.E.A.T. has a well developed strategic plan which takes it into the year 2000.

The program was scrutinized in a Cross Sectional Evaluation conducted by the University of Nebraska at Omaha and the evaluators report that there is "significant statistical information" showing that students who received G.R.E.A.T. training developed more pro-social skills than those who had not attended the program. This evaluation was completed in 1996 and will be published by the National Institute of Justice. Also, a Longitudinal Evaluation is underway. At the end of one year of collecting information from G.R.E.A.T. students who are involved in the longitudinal study, the evaluators are unofficially reporting that they have seen responses which are similar to what they observed in the Cross Sectional Evaluation.

This program is truly a partnership between law enforcement, educators, parents, and the community and because of this fact, it stands the best chance of making a positive impact on its targeted audience.

The G.R.E.A.T. Program is being funded in a limited number of jurisdictions. In addition, the G.R.E.A.T Program is funded out of the Violent Crime Trust Fund which expires in fiscal year 2000.

Question. If you consider this program a success, why has the funding request level remained constant for the past three years?

Answer. The G.R.E.A.T Program has been growing at an extraordinary rate because participating police departments and ATF have been spreading the stories of success through formal and informal communications. However, until the University of Nebraska at Omaha's Cross Sectional Evaluation was completed at the end of fiscal year 1996, ATF did not have scientific evidence that demonstrated that this program meets its objectives. Until the evidence of its success was obtained, we were taking an incremental approach in requesting funding

Question. A public survey conducted in Green Bay, Wisconsin, relates increasing juvenile crime to gang activity. What could ATF do to help eradicate this problem?

Answer. The G.R.E.A.T. Program is proving to be an effective tool in the fight against youth gang violence. However, in order for this program to have the most benefit it must be used with comprehensive illegal firearms suppression programs such as the Youth Crime Gun Interdiction Initiative, intervention programs, and other prevention programs which target youth offenders. G.R.E.A.T.'s strategic plan calls for us to seek and develop partnerships with other community based programs at the federal, state, and local levels. Through formal partnership with other Federal Departments (Justice and Education), state, local and non-profit agencies, G.R.E.A.T. has helped communities educate many American youths by providing them with valuable life skills which address the following topics: What are gangs and how they differ from Clubs; Crime/Victims and Victim Rights; Cultural Sensitivity/Prejudice; Conflict Resolution; Meeting Basic Needs; Drugs/Neighborhoods; Responsibility; and Goal Setting.

The Youth Gun Crime Interdiction Initiative is aimed at stopping the illegal supply of guns to gang offenders and juveniles. Since much youth firearms violence is gang-related, the YCGII is a critical component of our Nation's efforts against juvenile crime. The G.R.E.A.T Program give ATF, other Federal agencies, and State and local law enforcement tools to prevent violent crime and gang activities by developing the life skills of those people who attend the class and assuming that illegal firearms are less accessible.

Question. Other than contracting for a University of Nebraska evaluation, has ATF developed any standards or criteria for measuring the G.R.E.A.T. Program success?

Answer. G.R.E.A.T. is given its direction by a National Policy Board and managed by a National Training Committee which has developed a policy manual designed to insure that the curriculum is not changed and that the instructors are certified to teach and use the curriculum. We also continually have dialogue with program participants. However, the formal scientific evaluation of the program will be accomplished by the University of Nebraska study. This study will also provide the required outcome measures which could be applied in any local jurisdiction to measure success.

Question. The University of Nebraska's preliminary evaluation of the G.R.E.A.T program is based on the first 18 months of a four year examination period. How statistically valid would the 18 month results be in a four year longitudinal study?

Answer. The University of Nebraska has actually completed the first two parts of a three-part evaluation process. The results we now have are from the cross- sectional and process evaluation parts. Each shows G.R.E.A.T. as having positive results. As mentioned in the response to question 25, we only have unofficial, early results on the longitudinal study.

The National Institute of Justice believes longitudinal evaluations provide the most statistically valid indication of the effects of prevention/resistance programs. The evaluation being conducted by the University of Nebraska at Omaha must pass a "peer review" before it will be accepted by the National Institute of Justice as a valid study. We cannot answer the question as to the statistical validity of the current results toward the four year study.

Question. It has now been a year since the preliminary results of the Nebraska study were released. Has a 2nd phase analysis been produced?

Answer. The initial evaluation was a cross-sectional evaluation that has been completed, and the results will be published by the National Institute of Justice (NIJ) soon. NIJ did conduct a press conference and announced the preliminary results of the study in October 1996 during the annual International Association of Chiefs of Police (IACP) conference, however, the report still needs to be published by them.

In addition, the first phase of the longitudinal evaluation is in progress, and the data from the post test and one year follow-up questionnaires are being prepared for analysis. Preliminary results should be available in late summer 1997.

Question. It is currently costing $3 million annually to administer this program, which has provided training to approximately 2 million students over a five year period. Do you consider that a cost effective use of the funds?

Answer. Yes, the responsibility of ATF is to administer, evaluate, and expand the program, as well as provide assistance to communities who wish to join the program, or are using the program. All of these funds are not expended by ATF. Theses funds also pay for such things as G.R.E.A.T. officer training for non-cooperative agreement cities, the University of Nebraska's evaluation study, and 50 percent of the cooperative agreement with the city of Phoenix.

CANINE EXPLOSIVES PROGRAM

Background: In 1990, the U.S. Department of State, Antiterrorism Assistance Program requested ATF to evaluate their (DOS) canine program, which trained explosive detecting canines for foreign countries. ATF uncovered several serious deficiencies including no scientific testing, training, or oversight. DOS requested ATF's assistance in developing a training program to address the ATF concerns. As a result ATF started it's own program. The fiscal year 1998 ATF budget requests $3.9 million and 17 FTE to expand the canine training program.

According to ATF, their program is the only scientifically based training program, which utilizes specific scientific protocols to train, test and certify the performance of their canines. In addition, ATF has developed canine odor recognition training, using pure explosive substances, designed to eliminate cross contamination of explosives odors during explosives detection training. As a result, ATF has reported that their dogs can detect small amounts of some 19,000 different explosive compounds.

A number of agencies and departments involved in bomb and explosives detection have called into question, the claims ATF has made about it's Canine Explosives Detection Program.

Question. What operational experience does ATF have in the pre-blast use of canines to detect explosive substances and devices?

Answer. As the primary Federal agency charged with explosives jurisdiction, ATF trains other Federal, State, and local law enforcement officials on bomb search techniques, explosives device recognition, etc. ATF's jurisdictional authority applies whenever the components of a device are present. ATF also trains FAA personnel in device recognition. Per the Gore Commission, they recognized ATF expertise in the explosives arena and recommended ATF join the airport consortia to do explosives and disguised firearms threat assessments.

Because of the sensitive nature and significance of the investigative tool, ATF devotes additional resources to complement the handlers in the field. ATF is able to provide the other investigative tools associated with the Canine Explosive Detection Program (CEDP) such as laboratory analysis, explosives technology assistance, certified explosives specialists, National Response Teams, International Response Teams, explosives incidents data bank, explosives tracing, trend analysis, assistance in stolen explosives recovery, explosives training for law enforcement personnel, audit and major case oversight assistance, profiling, and polygraph examinations.

The Canine Explosive Detection Program was developed and is designed to incorporate all the support systems necessary to maintain the integrity of the program and provide Federal, State, local, and foreign law enforcement with the most dependable, durable, and mobile explosives detection system available today. The CEDP incorporates the knowledge and experience of the ATF forensic laboratory explosives section and the technical expertise of ATF explosives experts, special

agents, and canine trainers into a training regimen that produces a final product capable of addressing the escalating explosives threat faced by many communities.

An added dimension to the explosives detection canine trained by the CEDP is its ability to detect firearms and ammunition. Because the canines are conditioned to detect smokeless powder and other types of explosives fillers, they may be used by law enforcement to detect firearms in luggage, vehicles and during the service of search warrants.

ATF trained and certified canines have been used in pro-active law enforcement operations by foreign countries since the beginning of the CEDP in 1990. ATF canine teams are trained to work in a variety of different environmental settings on a daily basis. ATF has trained 122 canines for 7 foreign countries to be used in the war against terrorism. These canines have provided the following pro-active law enforcement duties in foreign countries: VIP and presidential protection details; security sweeps in American and foreign embassies, synagogues, palaces, public buildings and border checkpoints; searches of airports and airliners; explosives detection on high-risk search warrants; ships and ports of entry; courtrooms; bomb threats; etc. Canine teams work extensively at the Italian presidential palace, at the Vatican and on the Pope's travels outside the Vatican, and on all of Egyptian President Mubarak's movements. Canine teams worked on a 24-hour schedule in support of site, airport, and route security at the Peacemaker's Summit in Sharm al Sheik attended by the leaders of 17 countries, including President Clinton, Arafat, Mubarak, Kohl, Major, and Peres.

ATF introduced a pilot program two years ago with one ATF trained and certified explosives/weapons detection canine team. During the past two years, this canine team has been used in numerous pro-active ways. The team has helped locate weapons and ammunition on numerous search warrants, they have provided security sweeps of buildings for VIP visits, they have helped to recover evidence after explosives incidents and after a shooting incident, and they have been requested by State, local, and Federal agencies on numerous occasions for security/bomb sweeps for public buildings, schools, and government offices.

Examples from ATF's pilot special agent/canine team include the utilization of the team to help recover evidence after a brutal murder during a "carjacking" involving a firearm in Charlotte, North Carolina. The ATF canine searched a heavily wooded area, previously searched by officers. As a result of the shooting, the canine found minute amounts of skull and brain tissue in debris and on a wall with gunpowder residue.

Numerous searches have been enhanced by the presence of the ATF canine team. On one warrant the ATF canine found two concealed firearms during a search warrant. One of these firearms, a small semi-automatic assault weapon, was concealed in a bag and suspended in a crowded closet. On another warrant, the ATF canine helped in the recovery of over 110 firearms in various locations.

The Department of State, Office of Antiterrorism Assistance (DoS-ATA) has provided us with feedback on the work of the canines overseas. An example of the effectiveness of these canine teams on high risk search warrants comes from the Egyptian National Police. During entry to a terrorist safehouse, the canine teams were used with the entry team on their approach to the house. The canines alerted on the front door, the selected point of entry, prior to the entry. The point of entry was moved to an alternate entrance at the rear of the house. After entry was made, it was discovered the front door was booby-trapped with explosives. The ATF/ATA canines were credited with saving the lives of the six entry team members.

The Greek canine teams have performed over 15,000 searches, of which 10,000 were of a preventive nature in high profile targets, and the remainder concerned bomb threat searches. It is reported that no mistakes were made, as there were no bombs that went undiscovered and no other objects that were identified as bombs. Two improvised explosives devices were located, and the ATF/ATA canines were credited with saving the lives of many people. These finds are described below.

Following a bomb threat telephone call at the residence of the former President of the Scientific Council on Terrorist Matters, the ATF/ATA canine team located the clockwork explosive device.

Additionally, following a bomb threat telephone call at the Building of Justice in the city of Kavala, the ATF/ATA canine team located the device inside a ladies handbag.

The ATF canine team and nine ATF/ATA canine teams from Greece and Chile were specifically requested by the International Olympic Committee (IOC) and the Atlanta Committee for the Olympic Games (ACOG) to provide security/bomb sweeps of the Main Press Center and the Marriott Marquis Hotel, where a large majority of the foreign dignitaries, Heads of State, VIPs, and executives of IOC and ACOG were lodging.

The explosives enforcement officer assigned to the CEDP has extensive experience with the New York City Police Department (NYPD) Bomb Squad. He was an explosives expert/member of the bomb squad and was responsible for the oversight and training of all of NYPD Bomb Squad explosive detection canines. The NYPD Bomb Squad was responsible for extensive searches for the United Nations and for all of the pre-blast security/bomb sweeps for the city, to include work at both LaGuardia and JFK airports.

ATF also regulates the explosives industry and is the first agency to receive explosives samples, new packaging techniques, etc.

Question. How effective is an explosives detection canine in the post-blast environment that has been littered with explosives material? Have any studies been performed on this subject?

Answer. The effectiveness varies with the type of bomb and type of explosive. With pipe bombs, the canine search is very effective in locating fragments of the pipe bomb itself. In cases where a more vapor-producing explosive is used, such as dynamite, the canine is not effective in the crater area, but very effective in the wide outer perimeter area searching for components of the explosive device. ATF explosives experts are trained to recognize the blast seat and immediate areas surrounding it. The canines are most useful in the outer perimeter areas searching for bomb debris and fragmentation, where the fragments are not as easy to find. The canine is able to locate bomb debris and fragments in grass, in dirt, under leaves, in wooded areas, etc.

Examples of this are the use of ATF/ATA canine teams at post-blast scenes. Two canine teams were asked to respond to a post-blast scene 12 hours after two detonations occurred in Argentina. These teams responded to the scene and, immediately after starting the search, found remains of a pipe bomb. A few minutes later the canine teams found remains of the pipe bomb inside a garbage bag. Also, minute remnants of the other explosive device's power train, a small fraction of a cable, and a battery were found.

Another example from Buenos Aires was a canine team that was called to a high school. A large group had been demonstrating near the school, and some detonations were heard. During the scene search, a canine had a positive alert to a barely visible gray spot of about 30 centimeters in diameter on a door of an outside patio and to a smaller spot on a door glass pane. These samples were sent to the laboratory which reported that the samples were identified as black powder residue.

Presently no studies have been done, as this is a new area for the canine teams. When we have had occasions to use this technique, the canines found items that otherwise might not have been found by human searching. It has been particularly effective in cases where we have searched for weapons. A weapons search is essentially a search for the post-blast residues of smokeless powder. This works when you are searching for fired cartridge cases, fired weapons, or post-blast pipe bomb fragments.

Question. How many ATF explosives detection dogs are operational in the United States? Please provide a position (job) description for an ATF explosives canine handler.

Answer. After viewing the success of the ATF/ATA program in foreign countries, ATF decided to start its own pilot program, two years ago, with one operational canine team. This year ATF will add six additional special agent/canine teams. The position vacancy announcements have already been advertised for Chicago, San Francisco, Miami, Atlanta, Dallas, and Los Angeles. These teams, strategically placed throughout the United States, will help support ATF and assist State and local agencies. These additional teams were made possible through fiscal year 1997 funding.

ATF canine handlers are also ATF special agents. The special agent enhances the canine handler position by being an experienced law enforcement officer with a wide range of professional investigative training and experience. The special agent/canine handler is well versed in all areas of criminal enforcement and the various Federal laws enforced by ATF.

ATF plans to train explosives detection canines for eight State and local agencies this year. Once the enhancements have been made to the canine training facility and additional training staff is in place, ATF will begin to train 100 canines annually. This is expected to happen during fiscal year 1999.

[CLERK'S NOTE.—The position description for the ATF Special Agent/Canine Handler position does not appear in the hearing record, but is available for review in the subcommittee's files.]

Question. The House Treasury Appropriations Bill Report for fiscal year 1997 expressed concern about the existence of multiple Government canine explosives detec-

tion programs in an attempt to avoid duplication and waste. How does ATF's canine explosives detection program objectives differ from DOD's Military Working Dog Center and FAA's program? Could ATF use the established assets and resources at the Military Working Dog Program, already utilized by a number of Federal agencies?

Answer. ATF has, on several occasions, asked the Department of Defense Military Working Dog Program (DOD-MWD) and the Federal Aviation Administration (FAA) for a copy of their certification standards and protocols. ATF has supplied these agencies with a detailed booklet on its program. ATF has had discussions with these agencies and is waiting to receive written information on these agency's certification standards and protocols.

ATF uses different canine training methods and different protocols than the DOD-MWD program. One difference is ATF utilizes its National Forensic Laboratory, located in Rockville, Maryland, and its Explosives Technology Branch, located in Washington, DC, in conjunction with its training center for expertise in the selection of explosive compounds used in training. The scientific validation from ATF's National Forensic Laboratory is different from the scientific validation by DOD-MWD's animal behaviorists' staff.

The ATF program has always handled explosives samples differently than other programs to avoid contamination problems. Recently, some programs acknowledged contamination problems, and are now using the same or similar techniques for handling and storing explosives that ATF uses.

ATF utilizes the blind test methodology, wherein the forensic chemist administers the certification test.

ATF also utilizes a multitude of non-explosives distracting odors in its training and in the certification process. ATF believes the use of distracting odors more closely resembles the "real world" working environment. Canines will encounter all types of different odors while working, not just explosives.

ATF only uses Labrador Retrievers, a hearty, intelligent breed which can readily adapt to changing environments and one which posses a nonaggressive disposition which is effective in searching for explosives.

ATF is aware of only one Federal agency (FAA) that uses the DOD-MWD facilities. The FAA contracts with the DOD-MWD to train canines for their program. FAA then assigns these canines to other law enforcement agencies to support their mission. FAA does not train or have any of their own canine teams. ATF selects, trains, oversees, evaluates, and certifies all canines in their Canine Explosive Detection Program (CEDP).

It would not be advantageous now for ATF to utilize the DOD-MWD facilities because two different training methodologies and program standards are utilized. ATF's certification standards are different from the DOD-MWD program. However, if their standards met ATF's our criteria and ATF needed to produce teams beyond the capabilities of the Front Royal facility we would consider it.

ATF would also have to incur the expense of relocating personnel, lose the on-site response of its National Laboratory, and procure new explosives bunkers to alleviate any possible contamination problems.

ATF has already established an excellent working relationship with the United States Customs Service (USCS), and is jointly utilizing their Canine Enforcement Training Center (CETC) in Front Royal, Virginia. ATF has received funding for, and is presently in the process of, constructing a canine training building and new kennel facility to augment the existing USCS facility.

Question. Last year Congress also directed ATF to establish a pilot joint canine explosives detection program with the FAA to formulate standards for detection of explosives devices to further aviation safety. Where has ATF developed the necessary experience to train for searching and clearing large passenger airliners?

Answer. ATF trains canines for the environments they will be primarily used in by the countries receiving the canines. ATF canines working in conjunction with the DoS-ATA Program were working pro-actively in foreign airports long before the pro-active approach was introduced to U.S. airports. ATF does not just specifically train its canines to work in airports, nor does it specialize its training program for clearing airliners. ATF-trained canines are trained to work in a multitude of different environmental settings. It is ATF's belief that if the canine is highly trained to alert to the explosives odors, it can easily be trained to work in a variety of different environmental settings.

The ATF/ATA trained canine teams belonging to the Egyptian National Police have been assisting on the majority of TWA flights transiting Cairo. The primary flight services Riyadh/Cairo/JFK and returns. Since the Alexandria letter bomb incident, the ATF/ATA canines are now assigned to all departing TWA flights.

The Italian National Police initially received two ATF/ATA canines that have been used at the Rome Fiumicino Airport. A new class of eight handlers just completed training and will also be assisting at airports.

The Greek National Police use ATF/ATA canines on a daily basis at airports. U.S. airliners are among the airplanes searched daily, as well as Olympic Airways aircraft that fly to the United States.

ATF understands that canines have only just begun to work pro-actively in U.S. airports since the explosion of the TWA flight. This initiative was started with fiscal year 1997 funding provided to the FAA for an additional 114 canine teams to be used in airports, which was supported by the White House Report on Aviation Safety and Security.

It is ATF's understanding that the pilot program with FAA was to identify areas where the canines could be effectively utilized in airports and to gain knowledge from each others' canine programs. The congressional mandate authorizing the Secretary of the Treasury to establish national certification standards for explosives detection canines is separate from the joint pilot program with the FAA.

Question. The joint FAA and ATF report to Congress is past due (April 1, 1997) on a trial canine explosives detection program at Dulles International Airport. What is the reason for the delay? What is the current status of the study? When is the report expected to be completed?

Answer. An interim report on the establishment of a joint ATF/FAA canine explosives detection pilot program at Dulles International Airport has been prepared by ATF and is in the review process. It will be forwarded upon final review. We regret the delay in our response.

ATF and FAA have met on five occasions to discuss implementation of the pilot program, most recently on May 19. ATF and FAA met with representatives from the Metropolitan Washington Airport Authority (MWAA) during March 1997. ATF has offered the full support of its Canine Enforcement Program along with an ATF special agent/canine team as part of the pilot program. This offer was declined by MWAA. ATF is continuing discussions with FAA in relation to the pilot program.

ATF will forward their interim report on the pilot program progress upon final review. FAA has stated they will forward a similar report.

Question. Have there been "third party" evaluations of the ATF-trained dogs sent to the Department of State's Anti-terrorism Assistance designated countries? Please provide copies of ATF's scientific protocols for initial training, certification, and recertification procedures and standards used for the ATF Canine Explosives Detection trained teams.

Answer. The Chief Explosives Forensic Chemist assigned to ATF's National Forensic Laboratory conducts the certification process for the ATF trained canines. Fresh explosives samples are brought from the National Laboratory's exemplar collection for the certification test. Two of the samples used and brought to the certification test are explosive samples that the canine teams have never been trained on before. The canine teams must positively alert to these two samples and the 18 other explosives samples presented in the tests to pass the certification process.

An example of a third party evaluation of our canines was when the Greek National Police participated in the World Competition for Police Explosives Detection Canines in the Republic of Slovakia in September 1996. The ATF/ATA trained and certified canine "Garin" won first place. Twenty-three countries participated using numerous canine teams. The Greek National Police believe this honor confirms that they are using the best explosives detection canines in the world.

The Director of ATF invited representatives from every Federal agency with a canine explosives detection program to visit its training facility in Front Royal, Virginia. These agencies were invited to attend, discuss, and exchange information about ATF's certification standards and protocols, and observe the actual final certification process of the Egyptian National Police on November 4, 1996. Several agencies attended, including the FAA, Galaxy Scientific (an FAA research contractor), DOD-MWD, DoS-ATA, Technical Science Working Group—Office of Science and Technology (TSWG-OST), Department of Transportation (USDOT), United States Customs Service (USCS), United States Capitol Police (USCP), and the United States Secret Service (USSS).

Attached is an ATF booklet prepared on the Canine Explosive Detection Program that explains the program and contains a scientific paper prepared by Chief Explosives Forensic Chemist, Richard Strobel. The paper discusses all aspects of ATF's pilot CEDP. This booklet has been supplied to all interested law enforcement agencies, and has been sent in response to inquiries made about our canine program.

[CLERK'S NOTE.—The ATF booklet will not appear in the hearing record, but is available for review in the subcommittee's files.]

Question. Are you aware of any client countries which have participated in the ATF Canine Explosives Detection Program (sponsored by DoS), seeking alternative canine program assistance? Have any of the teams failed re-certification? What happens to a team that fails re-certification?

Answer. ATF is unaware of any client countries who are seeking an alternative canine program to the current ATF/ATA program. In 1990, the DoS-ATA evaluated the private sector canine contractor they were utilizing and found some deficiencies in the training process. After this assessment, DoS-ATA entered into an agreement with ATF to produce a more effective explosives detection canine. One with the capability of detecting more explosives odors and in smaller quantities than was currently being done. ATF used the expertise and success of the Canine Accelerant Detection Program (CADP) to develop its Canine Explosives Detection Program (CEDP). ATF used the training methodologies and protocols from the CADP, ATF explosives experts, and the ATF National Laboratory to develop the CEDP.

Some countries that currently participate in the ATA Program have been phasing out their prior (non-ATF/ATA) bomb dogs and are completely replacing them with ATF/ATA trained canines. Prior to each country receiving the ATF/ATA canine program, an assessment is conducted on their capability to support the stringent program requirements. In addition to them having to meet ATF/ATA requirements, they are advised they will receive a small number of canines for piloting (2 minimum, 6 maximum).

Each country then has the task of comparing the canines they have in their existing programs to the canines supplied by the ATA Program. All countries have unequivocally accepted the ATF/ATA program as being far superior to anything they have had previously.

The bomb squads of the respective countries are the end user and have stated that they have confidence in the capabilities of the canines trained by ATF for ATA. In Cyprus for example, the bomb squad commander, Inspector A. Chakalis was skeptical of canines in general based on canines that were in use prior to the ATF/ATA pilot. During a period when the canine handlers and trainers were away from the training facility, he hid explosives, ammunition, and weapons in locations the canine personnel were unaware of. He then asked them to conduct a search of the area. Much to his surprise, the canines found everything he had hidden in all of the locations. He stated to the most recent ATA evaluation team that he did not believe canines were capable of doing the things that he observed the canines doing. Because of his new found confidence in the canines, he has met with the national police hierarchy and requested the canines be assigned to his unit. He is now in charge of the bomb squad and the canine unit is integrated into that system.

The end user is really the person who evaluates the product. In Cyprus they are satisfied that the ATF/ATA canines they currently have are far superior than any other canines they have had in their 30 plus years of experience with canines.

ATA sends evaluation teams back to the countries which have received ATF/ATA canines. These teams conduct assessments of odor recognition capabilities and application of operational methods as taught. The respective countries have been given training guidelines for the upkeep/maintenance of the canines to keep them effective. Based on the ATF/ATA evaluations, the countries have done very well in this aspect.

In the canine's working environments, they encounter terrorist threats on a daily basis, thus there is no margin for error. The canine unit administrators, managers, supervisors, trainers, and handlers realize the business they are in and take what they do as a matter of life and death. Therefore, they train in real world situations and, at this time, there have not been any reports of any teams in any country being de-certified.

All of the countries that have received ATF/ATA trained canines have requested more canines. A requirement of the ATA program is that the recipient countries have experience in managing a detection canine program. They are to evaluate the ATF/ATA canines in their respective countries. Each country must make their own assessment of the effectiveness of the ATF/ATA canine program. Thus far, all countries have requested additional ATF/ATA trained canines for use in their countries.

Several of the countries with long histories of explosives detection canine programs utilizing the other training methods are in the process of converting their existing programs over to ATF's training methodologies and standards.

ATF has trained three classes for Cyprus, two for Greece, three for Egypt, two for Chile, two for Israel, two for Italy, and two for Argentina (one class completed training and one class is in training). Jordan is the next country scheduled to begin training. Israel and other countries with much explosives experience, and with high rates of explosives incidents, have requested more canines than we can presently produce with our current resources.

All 122 ATF/ATA canine teams that have gone through ATF's 10-week explosives detection training program have successfully completed the certification process with 100 percent of the explosives odors identification and have successfully completed all field training procedures.

All of our client foreign countries have been satisfied. They encounter terrorists and improvised explosive devices more often than the United States. The fact that they continue to request more of our canines and have changed their former canine programs to match ours speaks for itself.

There have been no reported failures in recertification in these foreign countries. If a team failed the recertification process, it would be evaluated and re- trained in the deficient areas, and returned to work, if appropriate.

Question. How many explosives detection dogs has ATF trained to date? What is the projected operational life expectancy of the dogs? How many of these dogs are still operational?

ATF has trained and certified 122 canine teams for the DoS-ATA Program and 1 pilot canine team for ATF's operational usage. ATF trains the canine and handler together so they work more efficiently as a team in the field.

The operational "working life" expectancy of the Labrador retriever utilized in ATF's canine programs is 7 to 9 years. The health of the canine is of the utmost importance to ATF. ATF gives additional health care training to every class of students. ATF also requests that each country send its assigned veterinarian to the training facility, so the foreign veterinarians can learn the new technologies and medical information pertinent to this breed.

ATF has also trained and certified 56 accelerant detection canines, using the same methodologies, since 1986. There are still 46 of these canines working today, exemplifying the excellence of this program. The remainder of these canines have since been retired. All of these canines have successfully recertified on an annual basis.

To our knowledge, of the 122 trained canine teams, approximately 5 are not operational because of medical reasons/age. We are not aware of any team having been taken out of service due to training problems or lack of ability to identify explosives odors.

Question. Please provide certification of the scientific validation of your canine training program, including sufficient detail to allow independent verification of stated results, not a summary of the program. Also, please include any peer-reviewed articles published in professional journals that further substantiate ATF's claim of having the only scientifically validated training program in the world.

Answer. The ATF pilot explosives detection program is outlined in Chief Explosives Forensic Chemist Richard Strobel's report in attachment B. These standards have been made public by ATF and sent to all requesting law enforcement agencies. ATF is unaware of any other canine program which has done the same.

In 1984, ATF conducted a study to determine the feasibility of imprinting a canine with an accelerant odor using the same methodologies and protocols it now uses in the explosives detection program. The findings of this study were presented to the American Academy of Forensic Science.

ATF recognizes that other programs use scientific data to verify their canine programs, such as the DOD-MWD's animal behaviorists' studies. However, ATF has not been supplied with any of this information.

To our knowledge, ATF is the only canine explosives detection program that fully utilizes a nationally accredited explosives forensic laboratory to back up its validation and certification standards.

ATF has invited and allowed anyone interested to view our program. ATF has also presented studies and findings performed in conjunction with Lawrence Livermore Laboratories at international symposia (International Symposium on the Analysis and Detection of Explosives 1992 and 1995; sponsored by the FAA). Validation is provided by the scientific testing and evaluation process that each canine undergoes and which demonstrates that the training methodology is effective. ATF only claims that we use scientific methods and scientific controls for the testing and evaluation of the canines. ATF selects the explosives on which to train the canines based upon the chemical compositions and the chemical families of explosives which exist today.

The CEDP incorporates the knowledge and experience of the ATF forensic laboratory and the technical expertise of ATF explosives experts, special agents, and canine trainers into a training regimen that produces a final product capable of addressing today's escalating explosives threats.

Question. What is ATF's participation in the on-going canine detection enhancement work and olfaction studies being funded by the Technical Support Working Group, DARPA, FAA, DOD, ONDCP, USSS, and the international cooperatives with Israel and the United Kingdom?

Answer. ATF is not participating in this study, however, it has received information in relation to this study. ATF has not received any funding in any fiscal year to do any similar studies.

ATF would like to continue receiving information on this study and any other studies by Federal agencies who have been Federally funded to perform such canine studies. ATF recognizes the best way to improve any program is through the sharing of information. This is why ATF has shared information on our program with and has been responsive to the requests of other agencies.

Question. Have ATF's unique training protocols for explosive detection been used by other canine programs within the local, State, and Federal governments, or the private sector?

Answer. ATF in partnership with the Connecticut State Police, has trained and certified 56 State and local accelerant detection canine teams utilizing ATF's methodologies. ATF has not trained any private, local, State, or other Federal Government agencies of the United States in its canine explosives detection program for domestic use. Since fiscal year 1997 funding was received, ATF will begin canine explosives detection training for State and local law enforcement agencies. Applications for participation have been sent to State and local agencies who have requested participation in the Canine Explosive Detection Program. The first class for State and local agencies will be conducted this fall. ATF will provide the funding for these State and local agencies to participate in our CEDP.

The NYPD Bomb Squad Canine Unit has been utilizing the classical conditioning method of training since the early 1970's.

Question. ATF states that their fully trained explosives detection canines are capable of detecting 19,000 different explosive compounds. What is the degree of reliability for detecting each of these compounds and what is the expiration of this reliability quotient upon leaving basic training? Please provide the scientific evidence of the canines abilities.

Answer. The 19,000 number is based on the number of explosives formulations that exist today. Each of these formulations has explosive compounds which are common to the five basic chemical families of explosives. ATF trains the canine on these basic odors, thus allowing the canine the ability to detect any explosive formulation that contains one of these odors. This method is validated when the dogs are tested at the end of their training. During this test the canines are tested on explosive formulations that they have not been exposed to in their training.

The canines are tested using the pure forms of the explosives and on explosives compounds they have not been exposed to before. Examples include NESTT explosives, reagent oxidizers, foreign explosives, urea nitrate and a long list of experimental and specialty use explosives. There have been no instances where ATF has presented a new explosives formulation to a trained canine which the canine could not detect. After basic training the canines train on a continued daily basis and are tested continuously, assuring the canines are working effectively.

The degree of reliability in large part relies on the continued training supplied by the handler, as it does with all canine programs for any detection discipline. Since the ATF canines train on the food reward system, they average 100+ training repetitions per day of smelling explosives odors. This varies greatly from some other forms of training. As with anything, the more training received, the more reliable the end product.

The ATF canines must detect 100 percent of the 20 explosives odors to certify. We know of no other canine programs that require their canines to detect 100 percent of explosives odors in order to certify. ATF canines must also pass the annual recertification test with 100 percent accuracy.

Question. Please provide copies of the scientific studies that support ATF's training methodology, wherein training a canine using pure explosives substance (e.g., RDX, TNT, and Nitroglycerin) will reliably alert to other explosive compounds containing that pure component (i.e., 20 pure odors detecting 19,000 explosive compounds). Will a ATF explosives detection dog trained on a pure major compound in smokeless powder be able to detect all smokeless powders?

Answer. Attachment B and answers to Q41, Q44 and Q46 provide information on the scientific studies that have been conducted that support ATF's canine training.

Yes, a canine trained on the correct smokeless powder formulation will be able to detect all other formulations with that common ingredient.

Question. What animal behavior studies support ATF's food reward and measured daily diet training methodology? Is there scientific evidence that this methodology remains effective once the dog and handler leave the disciplined training environment?

Answer. ATF utilizes the classical conditioning method of training which has been utilized by the canine training profession for decades. The classical conditioning

method is not a new theory in the realm of behavioral psychology, nor to the field of animal behaviorists.

The ATF canines are fed their full ration of food every day by their handler/partner. This daily training method is supported by the Guide Dog Foundations (where ATF procures its canines) and by ATF's veterinarian staff.

Answer. The scientific evidence that this training method remains effective in the field is proven by the operational usage of the canines, and the numerous explosives and weapons "finds" made by these canines in actual field operations. Also the fact that all ATF trained canines, in both the accelerant and explosives detection programs, are able to pass their annual re-certification tests by correctly identifying all of the accelerant or explosives odors presented to them.

The technique also remains effective because the canine teams continuously undergo the same training on a daily basis with 100+ training repetitions wherein the canine is exposed to explosives odors.

The recurring successes overseas and the fact that the accelerant detection program, using the same methodologies, has remained successful since 1986 is further evidence this program works.

Question. What is the minimum acceptable margin of error for ATF's Canine Explosives Detection program (false positives/false negatives)? What has been the pass/fail history of the canine and handlers participating in the program?

Answer. ATF-trained canines MUST pass the certification test with 100 percent accuracy on all 20 compounds in order to receive ATF certification. Only one false alert on a non-explosives odor is allowed in the entire certification process. All 20 explosives compounds must be alerted to positively with no misses. This pass/fail standard ensures the proficiency of the canines and maintains the integrity of ATF's Canine Explosive Detection Program (CEDP). To ATF's knowledge, ATF is the only program with this number of explosives compounds and proficiency standards this high.

ATF also utilizes the blind test methodology, wherein the forensic chemist administers the certification test. ATF also uses a multitude of distracting non-explosives odors in the certification test. ATF believes that canines working in "real world" environments will encounter all types of odors, not just explosives odors. Therefore, we train with and certify using distracting odors. Examples of distracter odors would be anything found in the environment in which the canine will be working, such as pet food, coffee, chewing tobacco, baby powder, toothpaste, denture cream, herbs, peanut butter, chocolate, soap, and tape.

ATF certifies their canines on a minimum of 20 different explosive compounds in varying quantities ranging from 1.7 grams to 15 grams. Training quantities vary from 1 gram to amounts exceeding 1,000 pounds. Two odors used in the certification are from samples of explosive odors not previously used in training. This helps to verify that canines trained using ATF's methodologies on the basic families of explosives will enable them to detect any formulation of explosive compositions made from them. During a 6-year training period, ATF has utilized many different explosives compounds during training. All of these explosive compounds were detected and alerted to by ATF canines.

To date, every canine entered into the ATF CEDP has successfully completed the entire training program and has received ATF certification as explosives or accelerant detection canines. ATF does not have a high "washout " rate which can result in a considerable waste of training time, resources, and money. ATF's success in this area can be attributed to the excellent breed and quality of canines it procures and the effective training methodologies we employ.

Question. According to ATF, your training program produces certified canines that are capable of detecting explosives quantities as low as 3 grams. Please provide the reports that substantiate these detection levels. Does the amount of explosives relate to detection? Does temperature, humidity, surface area, and the presence of other contaminates or background odors impact detection? What validation does ATF propose to offer, to qualify canines detecting minimum threshold levels?

Answer. All certification tests have been validated by the ATF National Laboratory. ATF has tested their canines on the 3 gram amount and lower. ATF not only uses small amounts of explosives to certify their canines, but also use distracting odors in the test. ATF has done this during the final certification test and each test is documented at the National Laboratory.

Yes, ATF is fully aware that various factors/conditions will affect a canine's ability to detect odor, no matter what training methodology is used. There must be explosives odor available for the canine to be able to detect it. Since it is never known what the amount of available odor might be, ATF trains with minute quantities of explosives compounds. This helps give the canine the ability to detect the smallest quantities of explosives odors available.

Since our canines are also conditioned to find smokeless powder and other types of explosives fillers, they are able to find firearms and ammunition. Our canines have made numerous weapons and ammunition "finds". These include locating empty bullet cartridges that have been fired from weapons. They also located a new firearm which was fired once at the factory, factory cleaned, shipped out, purchased, and was never fired again.

ATF offers the fact that 122 canines have been trained and certified by our National Explosives Forensic Laboratory on a minimum of 20 explosives compounds in quantities of 15 grams or less with 100 percent accuracy. ATF routinely trains on levels less than those used in the final tests.

Question. What quality assurance exists in the ATF program that dogs being trained are exposed to pure target samples of explosives, void of cross contaminant odors from other compounds (other explosives and commonly neutral material)? How does ATF verify and re-certify their training aids as being contamination free? What instruments are used to ensure that cross-contamination is not present in detectable levels by the canines undergoing training and certification?

Answer. ATF obtains explosives in as pristine a condition as possible. ATF stores the explosives in magazines that have been tested to ensure that they are not contaminated by volatile explosives. ATF changes their explosives sample training aids and their containers on a weekly basis to minimize the odors obtained through normal handling. ATF obtains fresh explosives for each class it trains.

The final testing of the teams is done with explosives that have been tested by the National Laboratory using either an EGIS or Scintrex EVD–1 explosives detector to check for cross contamination from other vapor producing explosives.

Question. ATF states that they are the only agency in the United States (and in the world) producing explosives detection canines and handler teams based upon "scientifically validated methods." What is the canine training methodology based on, employed by the other U.S. Government agencies? Should Congress question the degree of continuous reliability and effective performance of these other programs? Have there been documented cases involving these other Government programs, where explosive devices have been missed or never detected? What prompted the need for a "Government-wide" canine explosives detection standard?

Answer. ATF recognizes that other canine programs have scientific validation for their programs. However, ATF has not been supplied with any of this information.

To our knowledge, ATF is the only canine explosives detection program that fully utilizes a nationally accredited explosives forensic laboratory to back up its validation and certification standards. Until recently, ATF was not aware of any explosives chemists involved in the oversight of any other Federal canine programs.

ATF is the Federal agency with jurisdiction over explosives incidents. ATF trains its own canines, oversees its own canine program, trains canine teams for other law enforcement agencies, and uses its National Laboratory to test and certify the canines.

Since other programs have not provided ATF with information, we cannot comment on their programs. Other canine training programs should be required to report on their own respective training methodologies.

Congress has the authority to question the reliability of all other agencies with canine explosives detection training programs funded by Congress and should be asked this same battery of questions regarding their canine programs.

ATF is not supplied with documented "finds" or "misses" by other agencies. Heresay would not be an appropriate response. Congress has a legitimate role in the oversight of expenditures for Federally funded programs and can request this information from the other Federal agencies with canine explosives detection programs. Additional questions could be asked in reference to canine teams which have to be de-certified and for these agencies to supply information reference to their own in-house testing procedures and results.

ATF believes that the new awareness of the necessity for the best security possible and the need to protect the American public against terrorists threats has a great impact on the field of explosives detection canines.

There are general standards for everything used in the Federal Government. There has never been a standard placed on the effectiveness of explosives detection canines nor is there a definition of the capabilities expected of a canine purported to be a "bomb dog".

Every Federal agency utilizing explosives detection canines has a specific operation/mission to fulfill. The training methodology is not as important as the canine's ability to actually detect explosives odors. ATF believes its program conditions canines to effectively detect explosives under most if not all conditions.

Pursuant to law under the authority delegated to the Secretary of the Treasury by Congress, ATF is developing National Odor Recognition Proficiency Standards.

These odor recognition standards are not intended to replace any current certification standards already set by each respective Federal agency that employs explosives detection canines. It is a basic odor recognition proficiency standard that should be incorporated into all certification processes. This standard will also provide State and local law enforcement agencies with guidelines when procuring explosives detection canines from the private sector for their own programs.

We thank the committee for these excellent well-thought out questions and for giving us the opportunity to explain our program. We can not answer for other programs but feel these are questions that each canine explosives detection program should be required to answer. This will give Congress a thorough understanding of the canine programs funded by the US Government.

ARSON AND EXPLOSIVES ARCHIVES

Background: The fiscal year 1997 Appropriations included an initiative to enhance the ATF Explosives Incident System (Archives) to allow direct access for all Federal agencies to report explosives and arson incidents. The fiscal year 1998 request for $1.6 million to complete the system development and hardware requirements and allow field office on-line access to this information.

Question. What are the allied elements associated with gun running and counterterrorism?

Answer. The dissolution of the USSR and increased political, economic, and diplomatic sanctions against States sponsoring terrorism has caused certain terrorists groups to work with organized criminal organizations in order to obtain weapons or raise funds to buy weapons. For example, terrorist groups in South America have allied themselves with Colombian Drug Cartels. ATF is investigating U.S. nationals involved in trafficking firearms to insurgents groups in Central and South America, investigations involving Middle Eastern ethnic groups involved in firearms trafficking, and individuals involved in trafficking weapons to European terrorists groups. Firearms trafficking has also been associated with narcotics trafficking, alien smuggling, and other means in furtherance of organized crime, such as money laundering and the trafficking of any demand commodity.

ATF works in conjunction with other Federal law enforcement agencies and national intelligence agencies to counter firearms trafficking in terrorist operations. ATF does this through the International Traffic in Arms (ITAR) and Project Lead programs. ITAR is accomplished through ATF's firearms tracing capabilities to identify illegally trafficked U.S. source firearms, assisting in the identification of individuals and businesses holding U.S. firearms permits and licenses, through foreign law enforcement liaison, and other joint Federal and international investigative and enforcement projects.

ATF developed Project Lead, an automated firearms trafficking information system, which analyzes unique information on crime-related firearms gathered by ATF's National Tracing Center. Project Lead can help trace when a firearm entered the hands of a criminal, and who provided that firearm to the criminal.

ATF is a member of several joint task forces which include the FBI Joint Terrorism Task Force. The task forces were established across the U.S. to combine efforts to battle international terrorist groups acting within the U.S. and domestic terrorist groups.

Question. Is there any evidence that international governments are involved in gun running?

Answer. Yes, ATF has noticed through firearms tracing statistics, an increase in the trafficking of U.S. source firearms to Mexico, Central and South America and Asian/Pacific Nations through firearms tracing statistics. ATF has also initiated investigations into firearms trafficking within the U.S., involving foreign firearms. One ATF investigation involves the alleged trafficking of guns through corporations backed by an Asian Nation. Through other investigations, ATF suspects government involvement in firearms trafficking to Mexico, and countries in Central and South America. Firearms trafficking is used not only in criminal and terrorist operations, but also for economic purposes, such as the avoidance of import or legal restrictions of the country of destination.

Question. What is the scale of weapon diversion and what is being done to limit the market for weapon diversion?

Answer. Weapon diversion of U.S.-source firearms (between 1991–1996) has permeated the borders of 79 foreign countries, who reported over 30,000 firearms recovered. The majority of these firearms were located in three predominant countries; Canada, Mexico and Colombia. These firearms were used to commit violent crimes against the people of these countries. Allied crimes range from narcotics activities to terrorism and guerrilla activities.

As a result of its unique ability to trace firearms, ATF is able to identify illegally trafficked U.S.-source firearms to these foreign countries. This information is used to identify smuggling trends in an effort to combat the illegal flow of firearms. The International Enforcement Branch (IEB) has established offices in Canada, Mexico and Colombia to assist international law enforcement agencies in the gathering and identification of U.S.-source firearms. IEB continues to provide extensive training in firearms identification, serial number restoration, and the tracing process. IEB has also established an international firearms response team whose mission is dedicated to responding to large cache of weapons seizures and properly identifying these large caches of firearms for tracing and investigative purposes.

Question. Has the General Accounting Office done a study on this area?

Answer. To our knowledge the General Accounting Office has not done a study in this area.

Question. Please explain the international training programs run by ATF?

Answer. *International Law Enforcement Academy (ILEA)—Budapest:* In partnership with the Department of State, Office of International Narcotics and Law Enforcement, and other Federal law enforcement agencies, ATF participates in training programs with foreign governments. During this partnership endeavor, skilled, dedicated, and experienced ATF instructors present to mid-level enforcement managers of the newly independent states of the former Russian Republic and Eastern/Central European countries, firearms trafficking investigation, explosives incident investigation techniques, and gangs/gang resistance.

The block of instruction on Gangs/Gang Resistance provides an overview of the many gangs engaged in illegal activity in the United States, specifically dangerous street gangs. The instructor interacts with the students sharing and exchanging information enabling them to develop their own strategies to combat gang activities in their particular country.

The Firearms Trafficking block of instruction provides an overview of the current firearms issues in the United States and discusses the most pressing law enforcement problems relating to firearms. The United States firearms law are reviewed and ATF's national firearms enforcement strategy is presented. Time is also allocated for the students to share and exchange information pertaining to their country's firearms laws, concerns, and issues, which should facilitate the development of strategies that meet their needs to combat firearms violence.

The Explosives Incidents Investigation Techniques portion of instruction provides an overview of explosive theory, team concepts, and investigative techniques, utilizing ATF's "100-Steps" method of conducting postblast scene investigations.

International Post-blast Investigation Training: The International Postblast Investigation Training is provided to countries of the newly independent states and countries of East/Central Europe. The students receive actual hands-on experience, learning how to conduct bomb scene investigations following an actual explosion, using the latest equipment available and following safe procedures while conducting postblast (bomb) scene investigations.

ATF instructors present classroom instruction covering subjects that relate to explosive theory, team concepts, investigative techniques, reconstruction of crime scenes, postblast identification, military ordnance, the roles of the pathologist and chemist as it relates to explosive investigations, interview techniques and fingerprint processing. Practical field exercises requires the students to analyze the specific duties of each team member, utilize the "100 Steps" method in investigating both a vehicle and residential bombing, and participate in the bomb scene investigation applying the learned investigative techniques.

The course is conducted at the Federal Law Enforcement Training Center (FLETC), Glynco, Georgia. FLETC provides the facilities necessary to conduct this training including an explosive range.

International Canine Explosives Detection Training: The canine dog detector course is designed to train canines to detect explosives compounds in minute amounts for use by foreign governments in the fight against terrorism. In addition, this program is designed to train the foreign governments' on how to train the explosives- detecting canines in the ATF methodologies so they will ultimately be able to duplicate this methodology without having to rely on ATF or the United States Government.

International Firearms and Explosives Identification Training—Latin America and the Caribbean: The Basic and Advanced International Firearms and Explosives Identification courses are a joint effort between the Department of State, the United States Customs Service (USCS) and the Bureau of Alcohol, Tobacco and Firearms (ATF). ATF's training objectives are as follows: (a) to reduce the flow of illegal U.S. source firearms and explosives abroad by training foreign law enforcement and military officials to accurately recognize, describe and initiate tracer actions designed

to identify sources of illegal arms; and (b) to establish a partnership with international law enforcement officials in Latin America and the Caribbean region which will allow for an ongoing international exchange of information.

During the basic course, the students are provided with an overview of ATF's history/function, U.S., laws and regulations relating to the illegal purchase and trafficking of firearms and explosives, as well as how ATF identifies and documents commercial and military firearms and explosives for tracing purposes. At the end of the course, the students are given a test that they must pass in order to attend the 1-week advanced (train-the-trainer) training. During the test, the students must be able to identify ten firearms and successfully complete ATF's tracing form. The basic courses are conducted in regional sites throughout Latin America and the Caribbean, and the advanced courses are conducted in Washington, DC. During the advanced course, the participants participate in training events at ATF's National Tracing Center and at a local arms manufacturing plant.

International Serial Number Restoration Training: This technical course provides foreign law enforcement personnel with an overview of serial number structure and tracing covering all aspects of magnetic, chemical and electrolytic techniques. This is a two day course held either in a foreign country or at the ATF National Laboratory, Rockville, MD.

International Explosives Safe-Handling and Bomb Threat Management: This course involves the recognition, documentation, and safe-handling of commercial and military explosives and ordnance. During this course, foreign law enforcement officials are provided with an overview of U.S. laws and regulations relating to the investigations of explosives, proper techniques and methods for handling explosives and searching buildings, terrorist tactics in the use of explosives, shipping of explosives to laboratories, and handling of explosives scenes. This is a one day course delivered abroad by ATF's Country Attaches.

Question. Revolutionary forces are providing the backing for the arms trade. How is ATF investigating this activity and working to reduce these threats?

Answer. There are numerous revolutionary forces trafficking in firearms to support their efforts. ATF has participated in several major investigations involving these groups, and has been successful in identifying firearms traffickers from the United States who are supplying firearms to these forces. ATF has trained numerous foreign officials in the identification of firearms which is essential for the accurate tracing of firearms that are being trafficked to these groups worldwide. ATF has also dispatched personnel from ATF's International Enforcement Branch and Firearms Technology Branch to these areas where large caches of firearms are recovered to issue accurate compilation of firearms nomenclature, which in turn provides better trafficking intelligence and successful arrest and prosecution of the traffickers. ATF has also cultivated sources of information by our foreign offices to determine the sources in the United States. When these sources are identified, ATF's domestic offices go to work in perfecting investigations against these illegal firearms sources. ATF's International Enforcement Branch has been instrumental in identifying trafficking patterns, and providing this information to our field offices for further action.

NATIONAL CRIME INFORMATION CENTER

Background: Criticisms from Members of Congress as well as recent news reports suggest the FBI is having difficulty upgrading automatic systems at the National Crime Information Center (NCIC). ATF contributes to the records managed by the Center as well as relies on them.

Question. For the public to receive full value for the monies spent for law enforcement resources, should efforts be made to require a coordinated Treasury/Justice law enforcement solution to help solve the FBI's problem?

Answer. The Federal Bureau of Investigation (FBI) has recognized the need for input from the Criminal Justice Information System (CJIS), formerly National Crime Information Center (NCIC), user community throughout the development of the upgraded automated systems at the FBI. Since the beginning of the development process, the Director of the FBI has received recommendations and guidance in the development and operations of CJIS from the four CJIS Regional Working Groups. The groups comprise representatives from all the state and selected local law enforcement agencies.

Furthermore, in December 1994, the CJIS Advisory Policy Board expanded the number of working groups to include the addition of the Federal Working Group. This group comprises representatives from over eighty Federal agencies. This includes representatives from ATF, Customs, and Secret Service.

In addition, the Federal Working Group also participates in the advisory process with the other users through their representatives on the CJIS Advisory Policy Board. This board, formerly the NCIC Advisory Board, comprises selected representatives from Federal, state and local law enforcement agencies. The twenty- seven member board serves in an advisory capacity to the FBI Director on all CJIS operations.

The combined membership of the regional working groups and the CJIS Advisory Policy Board also provides the FBI Director with input from more than 150 representatives with extensive background in law enforcement and information technology.

EXPLOSIVES INSPECTIONS PROGRAM

Question. Aren't the inspections of these facilities part of ATF's regulatory responsibilities? Won't these inspections continue past the life of the Trust Fund?

Answer. Yes the inspections are part of ATF's regulatory responsibilities and will continue past the life of the Trust Fund.

Question. If ATF were to receive this fiscal year 1988 funding as part of VCRTF how, would ATF continue to fund the initiative in the future? Would this become part of ATF's Salaries and Expenses base funding level?

Answer. ATF wishes to continue the initiative for explosives safety purposes to maintain 100 percent coverage.

TRIGGER LOCKS

Background: ATF on its own initiative, issued child safety locks, also known as trigger locks, to all of its agents.

Question. In your opinion is this type of legislation important?

Answer. ATF is a proponent of the use of trigger locks. When properly utilized, these devices will extremely beneficial by preventing children from causing tragic firearms related accidental injuries and deaths. Similar to a time when seatbelts were first introduced in the automobile industry, trigger locks might not be widely accepted and it will take time for the public to become accustomed to using them; however, they are clearly something that should be required.

Question. Why did ATF issue child safety or trigger locks to its agents before it was a legal requirement?

Answer. ATF issued these devices to its special agents because the laws of some States required them. Moreover, special agents had expressed concern about the safety of their children and other family members while their firearms where kept in the home.

Question. Do you think child-safety or trigger locks can be an effective tool to protect kids?

Answer. Yes, such trigger locks will deny access to operable firearms by children and should help prevent tragic and accidental deaths.

Question. Do you support my bill?

Answer. The Administration supports legislation requiring Federal Firearms Licenses to transfer locking devices to non licensees purchasing firearms. In contrast, your bill would require these transfers only upon the sale of handguns. There are other differences between your bill and the administration's bill that need to be resolved.

Question. To all agency Directors present, how many accidental discharges of firearms involving children or others present in the home have occurred in the past with your own gun carrying personnel?

Answer. ATF has received no reported accidental (unintentional) discharge incidents involving children or others in the home.

CEASEFIRE/DRUGFIRE INTEROPERABILITY

Background: Report language accompanying Public Law 104–208 (FY 1997 Appropriations law) directed OMB to move forward the Memorandum of Understanding between ATF and the Federal Bureau of Investigation as a means of achieving Interoperability. Since that time OMB has been working with the National Institute of Standards and Technology to develop standards for the Interoperability of these systems.

Question. What is the current status of the Interoperability issue?

Answer. On January 15, 1996, the Bureau of Alcohol, Tobacco and Firearms, the Federal Bureau of Investigation, and the Office of National Drug Control Policy signed a Memorandum Understanding (MOU) on ballistics systems interoperability. The Office of Management and Budget has worked closely with the officials of the Bureau of Alcohol Tobacco and Firearms, the Federal Bureau of Investigation, ven-

dors of the competing IBIS and Drugfire technologies, and State and local users of this technology to promote interoperability. National Institute of Standards and Technology (NIST) has been asked by OMB to lead the technical efforts associated with interoperablity implementation.

Significant events:

On November 12, 1996, NIST chaired and hosted a meeting with representative of OMB, ATF, and FBI and the two vendors of ballistics systems and various State and local users of IBIS and Drugfire systems.

NIST has received technical data from both contractors to be used to formulate the conformance test (i.e., does each system capture and store image and associated text data correctly on cartridge casings only).

NIST will be scheduling a meeting for July 1997 for interested participants to discuss and adopt specific procedures for the cartridge limited interoperability test (i.e., can each system accept and use images captured by the other system).

Question. Is the technology used to develop these systems the same?

Answer. Both technologies are similar in some respects. They both capture images of breech faces, firing pins and ejector marks. Case information, GRC's, and images are stored in a commercial database. Before doing any type of correlation, database candidates are pre-screened based on GRC's and event type (i.e., evidence or testfire). Both systems are network able.

The United States is supporting the deployment of two incompatible ballistics identification systems within the law enforcement community. At this time, the image of a bullet or cartridge case captured on the Drugfire system cannot be analyzed by the IBIS system and vice versa. To further compound the problem, these Federally funded systems are provided to State and local law enforcement through separately funded ATF and FBI programs. Concerns have been raised within the Administration and the law enforcement community that having two divergent and competing programs is not in the best interest of law enforcement.

Question. Is it feasible to make these systems interoperable?

Answer. Currently, the Drugfire and IBIS systems are not interoperable. With information gathered by the National Institute of Standards and Technology (NIST), they've put forward specifications that could make both systems interoperable. With these changes in place, it would be possible to exchange information so that a limited correlation (database search) could be initiated.

The interoperability study only considers the cartridge case modules of each system.

Both systems have to capture an image in the other system's image format (different lighting); therefore, a hardware change is necessary. The graphical user intake and database structure has to be modified and networking protocol has to be implemented.

Whether or not both systems can truly be interoperable is still unknown. We will only know for sure once we connect both systems together and perform all necessary tests.

On March 27 1997, NIST proposed a test plan that briefly describes the evaluation method that will take place. The test is scheduled for summer 1997.

Question. The ATF preferred system CEASEFIRE projects the image of the bullet or the cartridge while the FBI system Drugfire records the number of correlations between the bullets and other bullets. Does this variation in the way the system trace the bullets have an impact on the training of the staff required to complete the testing?

Answer. Each system has its own training requirements. The ATF-preferred IBIS technology only requires two weeks of training, provided by the manufacturer, to a NON-firearms examiner. It is unclear what training is required to operate the FBI's Drugfire system.

Question. When was the last time ATF sat down with all the members of the MOU (FBI, ATF, NIST, OMB)? At that time were all questions concerning the interoperability of the systems answered?

Answer. The last meeting between all agencies was November, 1996. A subcommittee made up of engineers from both Forensic Technology, Inc. (manufacturer of IBIS) and Mnemonics (manufacturer of Drugfire) was created and an agreement to meet again to discuss technical issues was set.

Question. Who is conducting oversight to monitor regional placement of these two systems to prevent redundancy?

Answer. The Omnibus Consolidated Appropriations Act for fiscal year 1997 restricts duplication of the two systems in State and local jurisdictions. During the fiscal year 1998 budget process, the Office of Management and Budget worked to

ensure that funding for redundant systems was not included in the fiscal year 1998 President's Budget.

Question. Is there a requirement that the custodial department, where the CEASEFIRE equipment is located, demonstrate regional interagency usage of the system?

Answer. The Bureau of Alcohol, Tobacco and Firearms, in partnership with the custodial law enforcement agency, has incorporated language into the Memorandum of Understanding that they must allow law enforcement agencies from the surrounding jurisdictions and networked systems access to their bullet and cartridge case database for search and evaluation capability.

Question. What have been some of the achievements realized by CEASEFIRE?

Answer. Over 400 "hits," including bullets, have been made nationwide utilizing CEASEFIRE's Integrated Ballistic Identification System. The aforementioned hits include, bullet to bullet match, bullet to weapon match, cartridge to weapon match, and cartridge to cartridge match. These matches include bullets and or cartridges recovered from homicide scenes, assaults scenes etc. Examples of IBIS hits include the following:

—In January, 1996, Washington D.C., a suspect made contact with an ATF agent who was acting in an undercover (U/C) capacity. The suspect offered to sell the U/C agent a .22 caliber handgun. An arrangement was made to meet and conduct the transaction. On this same date the U/C purchased, from the suspect, a Magnum .22 caliber semi-automatic handgun.

In January, 1996, the aforementioned firearm was test fired and the shell casing was entered into IBIS.

In January, 1996, ATF received verbal confirmation from the Metropolitan Police Dept Firearms Examiner, that the test fired shell casing taken from the Magnum .22 caliber, semi-automatic handgun, purchased by the ATF U/C agent, matched the shell casing found at a crime scene associated with a murder earlier that month.

—On June 8, 1994, suspects robbed a WinnDixie store in Danville, Virginia. During the robbery the store manager was shot and killed with a 9mm semi-automatic pistol.

On June 12, 1994, a Bryco, 9mm semi-automatic pistol was recovered from a juvenile in Washington D.C., by the United States Park Police pursuant to an investigation of assault with a deadly weapon. A firearms trace request initiated in which ATF traced the firearm to Danville, Virginia where it had been purchased on June 8, 1994.

On January 12, 1995, ATF agents interviewed the purchaser of the 9mm Bryco pistol. The purchaser admitted to "straw" purchasing the Bryco, 9mm, pistol for a local juvenile.

On January 13, 1995, the 9mm Bryco pistol was retrieved for ballistic comparison.

On January 19, 1995, IBIS was utilized to conduct a comparison of a test fire of the Bryce 9mm pistol and the shell casings and projectile recovered from the June 8, 1994, murder scene at the WinnDixie store. As a result of that comparison, a match was confirmed of the shell casing and projectile.

As a direct result of the test/comparison done by IBIS, the juvenile pled guilty in State court to first degree murder. Two additional defendants were successfully prosecuted in State court.

—On November 5, 1996, as a result of the attempted assassination of Japan's Chief Law Enforcement Officer, Japanese investigators and firearms examiners arranged to travel to the ATF National Laboratory, Rockville Maryland, to input into IBIS the projectiles recovered from the victim's body. The correlation was not expected to link investigations, rather to identify the type(s) of firearms used in the attempted assassination. Through specific class characteristics exhibited by .38 caliber projectiles, IBIS identified Colt as the most probable firearm used. IBIS further gave the Japanese authorities two other alternative candidates, a Miroku, (Japanese made firearm) and a Squires-Bingham, (Philippines made firearm). Currently IBIS is the only system capable of performing the aforementioned task.

—On June 28, 1992, a victim was found in the Northeast section of Washington D.C. suffering from a gunshot wound to the chest. Recovered at the crime scene were numerous 9mm shell casings.

On July 1, 1992, a suspect was taken into custody, by the Metropolitan Police Department, on an unrelated assault charge. A 9mm firearm taken into custody.

—On January 31, 1996, ATF's CEASEFIRE Program in partnership with the Metropolitan Police Department and using the IBIS technology, linked the two

aforementioned crimes giving the local police department a suspect in the June, 1992 assault.

—In December, 1995, New Jersey, an individual was the apparent victim of a drive by shooting while walking his/her dog.

In February, 1996, Newark, New Jersey, a individual was shot five (5) times, three in the head. The victim of this shooting survived his attack and identified his attacker.

On January, 1997, Essex County Sheriff's Office utilizing the IBIS system made a positive comparison (hit) between the projectile used on the December, 1995 murder and the February, 1996 attempted murder.

Essex County Prosecutor's Office is requesting that no publicity be given to these results as this is an ongoing murder investigation.

In November, 1996, defendant arrested by the Orange New Jersey Police Department, and charged with violations of New Jersey State weapons laws, and aggravated assault. These charges were a direct result of a comparison done on IBIS of projectiles recovered from two crime scenes from two separate investigations. The Essex County Sheriff's Department, where IBIS is located, performed the comparison. The Sheriff's Department was able to tie both shooting incidents together through IBIS and along with other investigative leads obtained and executed a New Jersey State search warrant which resulted in the arrest of one individual currently charged in both incidents. This case is pending judicial action.

Question. Are there any agencies requesting CEASEFIRE, that in ATF's opinion, represent a serious regional need?

Answer. To date, ATF has received requests for expansion of the CEASEFIRE Program to their sites or agencies from the Kentucky State Police; Allegheny County, Penn; Mississippi State Lab; Washoe County, Reno, NV; Georgia Bureau of Investigations, Savannah, GA; Alabama Dept of Forensic Science; and Charlotte, NC.

Question. What are the shortfalls of the program that could be enhanced to achieve greater success?

Answer. A major shortfall is interoperability between the ATF and FBI systems.

DEMOGRAPHICS—POTENTIAL TRENDS IN VIOLENT CRIME AND JUVENILES

Background: Criminologists have suggested that historical studies point to a cyclical pattern in criminal behavior. During peak periods of criminal activity juvenile crime always increases.

According to population studies conducted by the Census Bureau, in the next fifteen years there will be a 12 percent increase in the population of persons between the ages of 16 to 24. Historically, juveniles in that age group are responsible for more than half the homicides in the nation. In the past fifteen years, the homicide rates for 13 and 14 year old's has risen by 145 percent, and the homicide rate for 15 year old's has risen by 240 percent.

Question. Has ATF developed any long-term strategies to tackle the potential increases in juvenile crime and violence?

Answer. Yes, ATF initiated the Youth Crime Gun Interdiction Initiative in 1996 in order to learn more about how youth gang offenders and juveniles obtain illegal access to firearms, to use Project LEAD to enable special agents to develop more cases focused specifically on illegal gun trafficking to juveniles and youth gang offenders, and to work with Sate and local law enforcement in crime gun tracing illegal firearms trafficking investigations.

ATF believes that while there are some state and national patterns of firearms trafficking that are relevant it is important that each city with a large volume of firearms recovered by police have information on the illegal trafficking affecting their community. Therefore, ATF developed a set of standard analyses for each of 17 pilot cities to provide snapshots of that city's illegal crime gun problem. ATF believes that law enforcement agencies, including ATF, U.S. Attorneys, police departments and district attorneys, will all benefit from this information, which can provide the basis for a collaborative enforcement strategy.

Crime gun trace information in Project LEAD as well as information from debriefing armed arrestees and traditional investigative information is already providing the basis for cases against illegal trafficking to young people, however, more can be done in the future.

In addition, ATF will be looking at youth and juvenile crime in the arson and explosives contexts as well, and tracking cases by age of the perpetrator to see if there are special problems that can be addressed through innovative law enforcement approaches.

In general, ATF places an extremely high priority on strategies that address armed violence. in all categories age ATF pursues an integrated enforcement strategy through two major tactics: Denying Criminals Access to Firearms and Imprisoning Violent Offenders. The two tactics are complementary as information obtained from the firearms used by armed violent criminals provides leads to identify illegal firearms traffickers. Conversely, as illegal firearms traffickers are identified and incarcerated, the availability of firearms to the criminal element is reduced. Within each of these tactics are supporting projects discussed below. Each of these tactics will be in support of reducing juvenile crime and violence where the laws apply to juveniles.

—The Achilles Project is a congressionally mandated enforcement program that utilizes two tough Federal statutes (18 U.S.C. §§ 924(c) and 924(e)) to remove from society those armed career criminals, armed narcotics traffickers, and other violent offenders who are responsible for a disproportionate percentage of this Nation's violent crime. These statutes require mandatory/minimum terms of imprisonment for all individuals convicted for armed narcotics trafficking. There are Achilles task forces located in 20 cities nationwide that consist of ATF special agents and inspectors and other Federal, State, and local law enforcement officers. This program has resulted in the arrest and successful prosecution of numerous armed narcotics traffickers and other violent offenders.

—The NTC traces firearms for law enforcement agencies both domestically and around the world. The NTC is the only source for information pertaining to the tracing of firearms in the United States. During fiscal year 1996, the NTC traced in excess of 134,000 firearms.

—Project LEAD is state-of-the-art computer software that utilizes available trace data maintained at the NTC. When crime-related firearms are traced, information concerning when the firearms entered the hands of a criminal and who provided that firearms to the criminal can be gathered. Project LEAD analyzes NTC data that will enable law enforcement to focus resources and initiate criminal investigations against illegal firearms traffickers and their source of supply.

—ATF's Firearms Trafficking Project is a comprehensive strategy to interdict the flow of firearms to the criminal element, including narcotics traffickers and violent offenders. Using computer technology to access data from ATF's NTC and the Stolen Firearms Program, ATF addresses illegal firearms trafficking by identifying the illegal source of the firearms to the criminal element. Through this program, ATF is able to impact upon narcotics traffickers' ability to acquire firearms in furtherance of their illegal activity.

—Stolen Firearms Project is an aggressive enforcement effort determined to reduce the amount of firearms stolen from interstate carriers and Federal firearms licensees. ATF research and data reveals that stolen firearms, by their very nature, are destined to be crime guns. The criminal element, realizing that their ability to acquire firearms has eroded, sees stolen firearms as an instant source of untraceable firepower.

—The CEASEFIRE Project provides support to law enforcement agencies in areas of the country experiencing serious organized criminal gang and drug-related shooting incidents. Currently, ATF is utilizing a state-of-the-art system that allows firearms technicians to digitize and automatically sort bullet and shell casing signatures and aids in providing matches at a greatly accelerated rate. The equipment expeditiously provides Federal, State, and local criminal investigators with leads to solve greater numbers of crimes in a shorter period of time.

The importance of our various programs and initiatives to address armed juvenile crime play an integral role in the Department of Justice's national long term strategy to address juvenile crime entitled Combating Violence and Delinquency: The National Juvenile Justice Action Plan.

ATF's formal efforts to reduce armed juvenile crime began in 1993 with a firearms tracing program specifically designed to determine the source of firearms recovered on school property and from juveniles who use them to commit violent crimes. This initiative grew from an increase in juvenile-related violent crime, including juvenile gang activity and shootings on or near school property, and from the number of instances in which juveniles brought firearms to school or committed acts of violence at school.

State and local law enforcement agencies were informed of this initiative and encouraged to participate in our efforts to reduce the frequency of firearms violence involving juveniles, identify and stem the illegal flow of firearms to juveniles, and apprehend and prosecute adults who violate firearms laws by purchasing firearms for, or providing firearms to juveniles. The results of that trace initiative were helpful in identifying general sources of firearms for juveniles

and the firearm preferences of juveniles. This initiative also led ATF to develop national strategies such as the Youth Crime Gun Interdiction Initiative, and support strategies that incorporate prevention and enforcement efforts. An example of an effective prevention program is GREAT.

The GREAT Program is a traditional prevention program, that brings law enforcement officials into schools to teach children the risks of gangs and guns. This new version of crime prevention relies on a collaborative, coordinated approach that makes deterrence work: Federal, State, and local authorities working together to prevent violent gang crime by making it clear to potential gang offenders that violence will not be tolerated, and will be responded to with certainty, swiftness, and whatever severity is required. This complements a law enforcement strategy aimed at reducing the local illegal gun supply. Both approaches to crime prevention have merit.

Question. What percentage of violent crime committed by juveniles employs the use of a firearm or explosive?

Answer. Current research by the National Institute of Justice indicates that on a national level, firearms-related homicide and violent crime rates involving juveniles are dramatically increasing while rates for similar crimes involving adults are showing a slight decrease. Nationally, we have estimated that in 1995 youths and juveniles were responsible for 6,430 murders with a firearm, 36,259 robberies with a firearm, 39,988 aggravated assaults with a firearm and 105,575 weapons offenses; totaling 188,252 youth and juvenile firearms related offenses. We are unable to estimate this data as a percentage of all juvenile crime. There is no data available regarding the use of explosives by juveniles.

Question. What influences a juvenile to carry an illegal firearm?

Answer. There are a number of factors that influence juveniles to illegally carry guns. Possible reasons may include carrying a firearm as a tool in furtherance of criminal activity; carrying and/or dealing in firearms for power, prestige or financial gain; as protection and out of fear of other juveniles carrying firearms; and/or as a result of status and peer concerns.

Question. What are the sources of firearms for juveniles?

Answer. There are illegal firearms traffickers-both large volume traffickers and small "straw purchases" who lawfully obtain firearms and then unlawfully transfer firearms to juveniles. In addition to diversion from retail purchase from FFL's, there is also diversion from the secondary market. Guns are sometimes stolen (from cars, homes, FFLs). Juveniles or gang members also share firearms and /or sell them to one another.

Question. Director Magaw, what are your suggestions for reducing the juvenile access to and use of firearms?

Answer. In most areas of the country, a joint Federal, State, and local law enforcement approach that incorporates ATF's illegal firearms trafficking strategy, as structured in the Youth Crime Gun Interdiction Initiative, can impact upon the access of juveniles to firearms. Since State and local law enforcement officers recover the majority of crime guns and encounter numerous offenders including juveniles in possession of firearms their participation and support of ATF's trafficking strategy is vital. It is the information from the debriefing of these defendants and the traces of these firearms that lead to the initiation of illegal firearms trafficking investigations against the sources of those firearms. ATF brings to this partnership the ability to Deny Criminals Access to Firearms, imprison the most incorrigible violent offenders removing them from the communities upon whom they prey and prevent young people from falling into violent gang behavior. In addition, ATF has the ability to trace firearms, analyze the data for leads, and use the Federal firearms laws to target the illegal firearms traffickers whose illegal activities often exceed the jurisdictional boundaries of State and local law enforcement and where often times there are no State laws to apply. By analyzing a specific city's crime gun trace information, ATF can also provide local law enforcement with an overview of its problem and a basis for strategy development to combat illegal trafficking.

Current YCGII investigations and outside research confirm that juveniles prefer new firearms. This trend assists law enforcement in identifying firearms sources on recovered guns, since new firearms have a shorter time to crime and they are easier to trace the firearm and identify the gun's source.

Therefore, the comprehensive tracing of all recovered crime-related firearms in an area experiencing high rates of armed crimes is a successful method for identifying those individuals who are illegally trafficking firearms. Additionally analyze crime gun data through Project LEAD, ATF's automated illegal firearms trafficking information system, is an important investigative tool.

Additionally, effective utilization of the following firearms enforcement programs can help to address and hopefully reduce juvenile access to and use of firearms:

—The Achilles Project is a congressionally mandated enforcement program that utilizes two tough Federal statutes (18 U.S.C. §§ 924(c) and 924(e)) to remove from society those armed career criminals, armed narcotics traffickers, and other violent offenders who are responsible for a disproportionate percentage of this Nation's violent crime. These statutes require mandatory/minimum terms of imprisonment for all individuals convicted for armed narcotics trafficking. There are Achilles task forces located in 20 cities nationwide that consist of ATF special agents and inspectors and other Federal, State, and local law enforcement officers. This program has resulted in the arrest and successful prosecution of numerous armed narcotics traffickers and other violent offenders.

—The NTC traces firearms for law enforcement agencies both domestically and around the world. The NTC is the only source for information pertaining to the tracing of firearms in the United States. During fiscal year 1996, the NTC traced in excess of 134,000 firearms.

—ATF's Firearms Trafficking Project is a comprehensive strategy to interdict the flow of firearms to the criminal element, including narcotics traffickers and violent offenders. Using computer technology to access data from ATF's NTC and the Stolen Firearms Program, ATF addresses illegal firearms trafficking by identifying the illegal source of the firearms to the criminal element. Through this program, ATF is able to impact upon narcotics traffickers' ability to acquire firearms in furtherance of their illegal activity.

—Stolen Firearms Project which is an aggressive enforcement effort determined to reduce the amount of firearms stolen from interstate carriers and Federal firearms licensees. ATF research and data reveals that stolen firearms, by their very nature, are destined to be crime guns. The criminal element, realizing that their ability to acquire firearms has eroded, sees stolen firearms as an instant source of untraceable firepower.

—The CEASEFIRE Project provides support to law enforcement agencies in areas of the country experiencing serious organized criminal gang and drug-related shooting incidents. Currently, ATF is utilizing a state-of-the art system that allows firearms technicians to digitize and automatically sort bullet and shell casing signatures and aids in providing matches at a greatly accelerated rate. The equipment expeditiously provides Federal, State, and local criminal investigators with leads to solve greater numbers of crimes in a shorter period of time.

Question. Have you any evidence that prevention programs such as the G.R.E.A.T Program, the DARE program or Project Outreach will have a positive impact on the future level of juvenile crime?

Answer. ATF is not in a position to speak to the effectiveness of any program other than the G.R.E.A.T. Program.

The G.R.E.A.T. Program has been evaluated in a cross-sectional evaluation conducted by the University of Nebraska and the evaluators report that there is "significant statistical information" showing that students who received the training developed more prosocial skills that those who had not attended. This evaluation was completed in 1996 and will be published by the National Institute of Justice. A five-year longitudinal evaluation is now in progress, also by the University of Nebraska. The National Institute of Justice and University Professors familiar with the process of conducting evaluations consider longitudinal evaluations to be a more reliable means of predicting the effectiveness of prevention/resistance programs than cross sectional studies.

Anecdotal evidence and other feedback from participating police departments who use the G.R.E.A.T. Program, such as Boston, Massachusetts; Portland, Oregon; Tucson, Arizona; Phoenix, Arizona; Philadelphia, Pennsylvania, and others have reported a reduction in their youth violent crime since using the G.R.E.A.T. Program in conjunction with proactive suppression and intervention programs.

This program is most effective when it is reinforced by intervention programs, and when Federal, State, and local law enforcement are collaborating to suppress illegal gun trafficking to gang offenders and juveniles.

THEFT OF MILITARY WEAPONS AND EXPLOSIVES

Background: The U.S. Military has very large inventories of a wide variety of firearms, munitions, and explosives. In the past, theft of this inventory has raised concern, specifically when associated with anti-government groups, but also with individuals who seek to possess this category of weapons and explosives.

Question. Does the military report all of its weapons and explosives thefts to ATF?

Answer. There is a requirement under 10 U.S.C. 2722 that the Secretary of Defense shall report the theft or loss of any ammunition, destructive devices, or explosives to the Secretary of the Treasury. ATF has a Memorandum of Understanding

with the Offices of the Inspector General, Department of defense which describes how this is to be done.

We have been receiving this information on a routine basis from the Department of Defense since the fiscal year 1993.

Question. Does ATF or the Military pass this information on the US Customs to monitor border movement of the stolen articles?

Answer. ATF, the military, and in certain situations the FBI, do investigate known thefts or losses, and do pass on information to other law enforcement agencies, including Customs on a case-by-case basis when the investigation warrants such action. Known thefts of military munitions are put into N.C.I.C., to Customs has access. ATF does not automatically pass on all of this type of information to Customs.

Question. Does ATF have any interaction with the military regarding incidents involving weapons and explosives?

Answer. Frequently, ATF will assist military investigations concerning known thefts of weapons and explosives. Military Explosives Ordinance Disposal (EOD) is often called upon to assist ATF in the disposal of recovered explosives.

Question. Of the past weapons and explosives seizures, how much is allied to thefts from the U.S. military installations? How much is associated with theft of foreign military equipment?

Answer. Thefts of military explosives during a 5-year period (1991–1995) constitutes less than 1 percent of all reported thefts. Currently, ATF doesn't capture foreign explosives thefts, only their recovery. We are currently working on a data base for this very purpose. When complete, this system will be titled the International Explosives Incidents System (IEXIS).

Question. Do U.S. military explosives and ordnance contain taggants?

Answer. The only "tagging" requirement in existing law is the requirement that plastic explosives manufactured or imported on or after April 24, 1997, contain a detection agent. Federal law enforcement agencies, the National Guard, and the military have a 15 year "use-up" period for plastic explosives imported into or manufactured in the United States prior to the date of enactment of the law, April 24, 1996. ATF has been advised that the military has been marking the plastic explosives it manufactures (primarily C4) for the past year.

THE INTERNET

Background: Most of us, whether we have computers or not, have become aware of the ability to surf "The Internet." However, many people are unaware of what lies out in the Internet. Recently, we have been exposed more and more to the darker side of the information highway.

Child pornography, sexual exploitation, get rich quick schemes, internet stalkers, how to do anything: create anarchy, rebel against your parents, commit the perfect murder, assemble an atomic bomb, all have been headlined in recent months out of concern for the social liabilities associated with access to this type of information and the precarious balance we wage with our first amendment right to "Freedom of Speech." Recently, in the Baltimore-Washington metropolitan area, there have been a number of bomb incidents in our schools, involving students who acquired their homemade explosives recipes from the Internet.

Question. Does ATF actively monitor the Internet for information on weapons and explosives?

Answer. No, ATF does not monitor the Internet. However, ATF does look at and confirm information on the Internet related to specific information, incidents or investigations. ATF does some limited background research on what is on the Internet concerning weapons and explosives.

Question. To what extent does Internet access provide information on the manufacturing of improvised explosives, munitions, bomb making and target assessment?

Answer. We have found there is considerable information on the Internet concerning the making of explosives and bombs, sufficient that a novice on the Internet could find it easily. For example, as research, one person, during a three hour period found 12 sites which had explosives or bomb instructions. This time included reading enough of the site to confirm that the instructions were real. This was done on a 14.4 modem, which is now considered slow.

Question. How extensive is the information pertaining to converting firearms to more lethal use? For example: "How to convert a semi-automatic weapon into a fully automatic machine gun?

Answer. There are very few places to find out how to alter guns to fire fully automatic on the Internet. Such information is much too specific to each particular gun and often requires parts. The Internet could be used to order books about the indi-

vidual firearm or process. There are a large number of firearms sites advertising dealers, books on guns, gun shows, parts and accessories.

Question. Does the Internet provide direction on manufacturing homemade weapons, firearms, silencers, etc?

Answer. This information is on the Internet in some of the same sites as the improvised explosives. There are directions on how to make such things as a potato gun, zip gun, air cannon and plastic bottle silencer.

Question. Has ATF been able to trace the source of any of these bulletin boards? What types of individuals or groups are behind publishing this information.

Answer. ATF has not traced the source of the information. The information is not illegal. Most of the sites are quite open as to who and what they are. The address of the site usually contains information about the source of the site. The sites about making explosives are generally not done by extremist groups, however, many extremist groups do have web links to go to these types of sites.

Question. Does ATF pursue contact referrals for illegal services on the Internet?

Answer. No, ATF does not on a routine basis look for and pursue contact referrals for illegal services on the Internet. ATF will on a case-by-case basis pursue any information on the Internet that we have reason to believe could result in a violation of a law which ATF enforces.

Question. From ATF's perspective, what role is the Internet playing in this illegal gun and explosive arena?

Answer. The Internet plays the same role as what a library might play as far as finding information on "how to" make things such as bombs or improvised weapons. Much of the information comes directly from books that have been published for years. The major difference is that the information can be found more easily and quicker in the privacy of a person's home. The Internet is an excellent research tool.

The Internet also affords communication applications much like the U.S. Mail in that it allows E-Mail between persons throughout the world. The major difference is that it is faster and more convenient.

The Internet also affords the opportunity for persons to advertise the sale of commodities much like magazines or the classified advertisements of the newspaper. Firearms accessories, parts, and books can be ordered right on the net. Locations of gun shops are advertised on the net.

There are a few "Chat Rooms" and "Newsgroups" which have discussions about guns, explosives, bombs, fires, fireworks, or anything in which two or more people might be interested. We have also found "how to" information in the newsgroups.

ATF NATIONAL LAB AND FIRE INVESTIGATION RESEARCH FACILITY

Background: ATF is requesting $55 million in fiscal year 1998 (combined with $7 million in fiscal year 1997) to fund the design and construction of a new Firearms National Laboratory Center and the Fire Investigation Research and Development Center (FIRE). These two entities would be co-located in the same facility, a location yet to be finalized. ATF submits that the current laboratory facility located in Rockville, Maryland, is no longer suitable for its purposes. ATF cites a severe shortage of space to accommodate all levels of forensic and research activity that is required of the facility. In addition, 90 percent of the current facility has failed EPA and OSHA health and safety standards.

Question. What activity is currently being performed at the National Laboratory in Rockville, MD?

Answer. The National Laboratory Center houses three separate functions: an Alcohol and Tobacco Laboratory, a Forensic Science Laboratory, and Enforcement Support Branch. The Alcohol and Tobacco Lab does analysis on beverage and non- beverage alcohol products, tobacco products and consumer complaints. The Alcohol and Tobacco Lab is responsible for new product approval, analysis of pesticides and contaminants, and Government Performance Results Act customer service plans. Products are checked for compliance with regulations and proper tax classification. The Forensic Science Lab analyzes physical evidence from firearms, arson, and explosives investigations. This laboratory also includes the IBIS Program management that supports ATF's CEASEFIRE initiative and a computer forensics program that has been successful in assisting in arson-for-profit investigations and firearms trafficking. In addition to chemical and physical analysis, the two laboratories are heavily involved in methods development and research on procedures to advance their capabilities. The Enforcement Support Branch supplies ATF agents with the technical equipment needed for investigations, including voice and radio equipment, protective gear, and state-of-the- art investigative tools.

Question. Was the facility originally constructed to perform the functions that the lab is doing now?

Answer. The building was built around 1972 as an office building. The building was converted to a laboratory in 1978. The architect and building contractor had never built a lab before. The result was a building without the necessary plumbing, electricity, and HVAC to support a lab facility. In excess $500,000 has been spent to remedy this with little success.

Question. Have any personnel assigned to the laboratory been medically or physically compromised as a results of occupational exposure associated with conditions in the laboratory?

Answer. Since we are aware that the ventilation system does not meet lab standards, some lab hoods are used while others are not used for certain procedures or experiments. This has been confirmed by outside chemical hygiene experts. At least two employees have been injured as a result of the HVAC's inability to control the temperature and humidity in the lab. In both cases, condensation on the floor caused chemists to fall and require medical attention.

Question. Is the immediate community or environment being exposed to any hazardous material associated with the laboratory's activity?

Answer. No, since we are aware of the limitations of the HVAC, the total ventilation system, and plumbing flaws, we limit our exposure and use of many hazardous materials. This also requires us to drum, store and pay for disposal of common lab solutions as hazardous wastes. This is very expensive and a drain on manpower.

Question. Have any investigations been cross-contaminated or called into jeopardy because of the existing working conditions at the laboratory?

Answer. We have made every effort to assure that no case is jeopardized due to cross-contamination of evidence samples. In order to do this, we have sacrificed some efficiencies. This becomes more and more difficult as the workload increases and space becomes more of a premium. This space problem also impacts our ability to house new equipment necessary to provide the highest quality service. This issue does jeopardize our American Society of Crime Laboratory Directors (ASCLD) accreditation and ability to attract the best professionals to our Lab.

Question. Has a site been proposed for the new laboratory and research facility?

Answer. We have concentrated on Federal land and donated land for the new site. We are in the process of reviewing each site with GSA. The sites currently being reviewed are Fort Meade, MD; White Oak, MD; Vint Hill Reservation, VA; and College Park, MD. Our current prospectus specified the Maryland suburban area. We are extremely concerned about maintaining our current staff and keeping family moves to a minimum.

Question. Has the construction prospectus been transmitted back from both the House Committee on Transportation and Infrastructure and the Senate Committee on Environment and Public Works?

Answer. The House Committee has approved the fiscal year 1997 $6.9 million portion of the prospectus. The fiscal year 1997 portion of the prospectus is currently in the Senate Committee and will be considered within the next two weeks. Neither committee has passed the fiscal year 1998 portion of the prospectus ($55 million).

Question. If funding is not secured for construction of a new laboratory facility, how will this impact on ATF's future investigations and regulatory functions?

Answer. Our ability to continue the quality scientific work that we are charged with is dependent on the move to a new modern facility. Safety, work requirements, and our continued accreditation are in jeopardy without a new facility. The three main parts of a successful scientific organization are the people, the equipment, and the facility. Any shortage in any of these three areas directly impacts the quality of work produced.

U.S. Secret Service

PRESIDENTIAL PROTECTION AND WHITE HOUSE SECURITY

Background: The fiscal year 1998 Secret Service Budget requests an additional $28.8 million for Presidential protection and White House security.

It is important that the citizens of the United States have access to the President and the White House. Certain groups are calling for the expansion of civil liberties (limiting government interference and intrusion), while advocating placing limits on the civil liberties of others (racism, anti-Semitism and class wars).

Developing a balance between preventing threats to the President and the White House, while still providing citizens access to their leadership is important.

Creating vacuums around our leaders would mean terrorists had won. But allowing our leaders to be under a constant state of siege, would disrupt the stability of the country.

Question. What level of security would the Secret Service feel comfortable with?

Answer. In 1996, the Department of the Treasury and the Secret Service completed a review of the security of the White House Complex. As a result of this review, the Service implemented new security procedures and provided enhancements to its existing security plan.

The Secret Service is continually involved in a risk assessment process in conjunction with its protective mission. The purpose of this process is to ensure that reasonable security measures are in place to support our mission. This is the basis of our Strategic Management Plan in relation to all of our protective operations.

With your continued support and with the procedures that we have implemented, the Service is comfortable with the level of security that we are currently providing to our protectees.

Question. What level of resources ($ and FTE) would that level of security require?

Answer. If the requested level of funding is provided in fiscal year 1998, and barring any additional requirements relative to the creation of "Presidential Park", the Service will have all the funding necessary for the security changes recommended by the White House Security Review for the White House Complex. However, some level of funding will need to recur in subsequent years to maintain, repair and replace the non-personnel security enhancements which have been installed within the White House Complex.

In a public format, the Service does not divulge the number of personnel assigned to the White House, or the cost of securing the White House Complex. Disclosure of this type of information could possibly compromise security. We would prefer to provide this information to you in a closed briefing.

Question. Has the Service seen an increase in threats over the past four years?

Answer. The Secret Service has seen the number of investigations of persons who have made or who have possibly posed threats to the President remain relatively constant over the past four years. The number of threats directed towards President Clinton during his first term and through the first four months of his second term has been generally consistent with the number of threats directed toward previous Presidents. There is a slight increase observed when making a comparison with the number of threats received by President Bush during his term.

In addition, there has been a rise in threats from international groups since the 1993 World Trade Center bombing, and domestic extremist activity has increased since the 1993 burning of the Branch Davidian Compound at Waco, Texas. Thus, there has been an increase in investigations conducted by this Service of threats emanating from terrorist activity.

Question. Has the rise in the United States Militia movement resulted in increased Presidential threats?

Answer. During the last few years there has been a dramatic increase in the number, size and activity of militia groups in America. There is evidence of militia activity in virtually every state. Intelligence analysts and law enforcement agree that the militia movement is a symptom of a national trend toward a rise in anti-government sentiment.

Beliefs underlying and motivating the militia movement include members' fears of a forthcoming "one world government", i.e. New World Order and suspension of the U.S. Constitution. The majority of militia members are ordinary citizens who have become fearful and mistrustful of the government.

Federal law enforcement agencies are frequently viewed as enemies and collaborators in the perceived scheme to establish a New World Order. In some cases, Secret Service protectees will also be perceived as "collaborators" because of their affiliations with certain international political, economic or humanitarian organizations. President Clinton, foreign Heads of State/Government and some former Presidents should be considered potential targets because of their political policies or their associations with these organizations.

The greatest concern among federal law enforcement personnel is the attraction to the militia movement by the "fringe element" which is no longer satisfied with maintaining a defensive posture. The April 19, 1995 bombing of the Alfred P. Murrah Building in Oklahoma City illustrates, all too well, the unstable nature of certain radical elements influenced by militia philosophy.

The persons and facilities protected by the Secret Service certainly can be considered as significant symbolic targets for domestic extremists.

Question. Do fluctuations in international terrorism have corresponding impacts on Presidential security?

Answer. Presidential security is adjusted as required based upon our assessment of intelligence information provided to the Secret Service from a variety of sources, including other government agencies.

Fluctuations in international terrorism have a direct impact on presidential security. The capability and intentions of groups to target Secret Service protectees are dependent upon several factors. These factors include the groups' infrastructure; support from citizens; governments; the availability of weapons; and the ability to plan, organize, and carry out an attack. Host government security services' effectiveness and ability to monitor and control international terrorists impact Presidential security during foreign travel by the U.S. President.

The degree to which an international terrorist group may target the President is often dependent upon world wide events. The Presidential threat level from international terrorists also fluctuates when certain foreign Heads of State/Government are in the presence of the U.S. President.

Question. Director Bowron, I understand that 300 people are annually sent to St. Elizabeth to be physiologically profiled, as a result of reported threats to the Presidency. Could you elaborate on this and can you explain how the Washington, D.C. area compares to the number of individuals profiled nationally?

Answer. Since January, 1993, the Secret Service has facilitated the commitment of just over 900 people in connection with its protective mission. Generally, someone who makes a threat, and who exhibits signs of a mental disorder, and is considered dangerous to themselves or others, is referred to a mental health facility for evaluation and possible commitment. They are not referred to these facilities to be profiled, but rather to determine if they are a danger to themselves or others, and if they are in need of treatment. During this time period, fifty-eight have been committed to St. Elizabeth's Hospital and twenty-five to D.C. General Hospital. In addition, the Washington Field Office has facilitated commitment of thirty-three persons in the Washington, D.C. metropolitan area.

Question. Has the Service developed a systematic analysis for monitoring the perceived level of threat toward its protectees? Has this been associated with a cost benefit analysis for the level of security required to ameliorate different levels of threat?

Answer. The Secret Service has developed a Protective Intelligence program to systematically monitor the perceived level of threat towards its protectees. The Protective Intelligence program monitors the perceived level of threat directed towards protectees in a number of ways. First, the number of persons who make or otherwise may pose threats is thoroughly investigated and evaluated. Secondly, those persons who have been evaluated as posing a risk to a protectee are carefully monitored while they continue to pose such risk. Thirdly, the past intelligence history, to include the number and seriousness of known cases, is periodically reviewed. Additionally, as a protectee travels throughout the country, current investigations of concern are reviewed to determine appropriate action. The Secret Service Intelligence Division's liaison activities solicit and receive pertinent information from other federal agencies. Secret Service field offices are in regular contact with State and local law enforcement, and mental health agencies to identify additional individuals and local issues of concern that may impact the protectee visit. Also, knowledge about the motivations, behavior and communication patterns of past attackers are incorporated into each Secret Service protectee assessment.

The Secret Service is constantly alert to any source of threat against a protectee. We pursue threats whether they come from individuals, groups, terrorists organizations or rogue governments. Any and all sources of potential danger to a protectee are fully investigated and evaluated by special agents assigned to Secret Service field offices throughout the United States and around the world. Security concerns are then analyzed in the Service's Intelligence Division.

The Secret Service has procedures in place which are followed when assigning security personnel to a protectee. These procedures are based on an analysis of a collection of information concerning our protectees. This is part of the risk assessment process which we use to assist us in our resource allocation decision making strategies. Based upon our risk assessment analysis, security is adjusted accordingly.

One of the objectives within our Strategic Management Plan is to ensure that resources associated with our protective operations are "balanced" by the risk assessment process. We have developed criteria based upon our risk assessment procedures that evaluates perceived levels of risk directed towards our protectees.

COUNTERFEIT CURRENCY

Background: Counterfeit currency funds drug trafficking, gun smuggling, and terrorist activities. These activities attack the economic stability of the United States currency.

Question. Does the Secret Service have the resources to track the movement of counterfeit currency?

Answer. The Secret Service has been very successful tracking the movement of counterfeit U.S. currency. Counterfeit currency tracking and reporting is accomplished by several different methods. The Federal Reserve system identifies approximately 30 percent of all reported counterfeit on a yearly basis. The remaining 70 percent is reported through commercial establishments, financial institutions and law enforcement efforts.

Once a new counterfeit U.S. Federal Reserve Note (FRN) is reported to the Secret Service, it is examined forensically by counterfeit specialists in the Counterfeit Division's Printing and Technology Section. That particular counterfeit is then classified by its printing defects and assigned a circular number. Utilizing the circular number, the Service can monitor that one type of counterfeit note to track the passing or seizure activity. The Secret Service has identified over 20,900 different counterfeit circulars, with over 20,000 variations.

The circular number, in conjunction with the Service's counterfeit information system, is used to generate the necessary statistical information to focus investigative resources. It was found in fiscal year 1996, through forensic identification, that approximately 67 percent of all counterfeit currency circulating domestically was produced outside the borders of the United States.

The Secret Service has learned, through experience, that the best method to deal with this problem is to address counterfeit issues at their source. This is accomplished by the permanent stationing of Secret Service agents to foreign posts. Verification of all foreign seizures by the Secret Service is instrumental in determining the extent of counterfeit U.S. currency in the region. The ability to be able to immediately respond and verify certain counterfeit FRN's, as well as provide advice and assistance to foreign law enforcement, is instrumental to the Secret Service's success in suppressing counterfeit.

Question. Does the Secret Service have the necessary authority to stem counterfeit activities?

Answer. The Secret Service has exclusive jurisdiction for investigations involving the counterfeiting of United States obligations and securities under Title 18 of the United States Code, Section 3056.

Occasionally the Secret Service proposes legislative changes that it believes would assist it in suppressing counterfeit currency. The Secret Service has identified counterfeiting trends that necessitate changes in forensic and investigative methodologies. One trend noted by the Service is the increased use of office machine copiers and computer printers. In fiscal year 1995, 8 percent of the counterfeit passed was office machine copied or computer generated. That statistic increases each year, with 11 percent circulated in fiscal year 1996 and 18 percent for the first six months of this fiscal year.

Some of the latest full-color digital copier systems are equipped with "anti-counterfeiting" security systems. These systems inhibit the production of counterfeit notes and/or encode a tracing pattern in each copy. The Secret Service has exclusive United States law enforcement capability in decoding the tracing system. The decoding has resulted in successfully identifying the machines used to produce counterfeits in approximately 65 criminal investigations.

The Secret Service would like to see legislation enacted requiring that all full-color photocopy and computer output or printer devices manufactured in the United States or imported into the United States contain, as an anti-counterfeiting feature, a functional identification-tracing system which will leave a repeated "latent code" imprinted throughout every full color document produced by the device. The "latent code" must contain information sufficient to identify the make, model, and serial number of the device. Further, the manufacturers and/or importers must provide, to the United States Secret Service, the necessary information, software and training to decode said identification/tracing system, as well as customer information relating to the decoded latent imprint.

Question. Does the Secret Service co-ordinate their counterfeiting intelligence with the CIA and other foreign intelligence agencies?

Answer. The Secret Service uses various sources to obtain intelligence information concerning counterfeiting. Some of these sources provide hard data; others provide intelligence and background information from which certain informed judgments can be made. Our agency has a good working relationship with the CIA and other foreign intelligence agencies. The foreign intelligence community has been generally receptive to our intelligence needs.

Question. It is my understanding that the Office of Foreign Asset Control (OFAC) tracks funding related to embargoed countries. What is OFAC's relationship with the Secret Service?

Answer. The U.S. Secret Service, in a coordinated effort with representatives from the Drug Enforcement Administration, the Department of Justice, the Department

of the Treasury, the Office of Foreign Assets Control, the Central Intelligence Agency, and the Federal Bureau of Investigation, have held meetings in connection with the enforcement of International Emergency Economics Powers Act (IEEPA) sanctions. The Service looks forward to enhancing those efforts and it's working relationship with OFAC.

Question. Does the Secret Service share information with the OFAC and vice-versa?

Answer. The Secret Service provides information to an IEEPA working group with the OFAC subsequently receiving information from this same group.

Question. Could this relationship work better?

Answer. There is continued interest by the Secret Service toward enhancing our relationship with OFAC. As an example, the Secret Service continues to investigate organized criminal alien groups which affect this country's financial systems. Many of the proceeds of their crimes (money laundering) are transferred overseas to foreign bank accounts or individuals. An increased exchange of information may be beneficial to both agencies and their respective goals.

Question. What is the status of the Secret Service's overseas presence?

Answer. At the present time, the Secret Service has 30 special agents and ten support personnel assigned to its ten foreign offices. Earlier this year, our request for an additional special agent position in Montreal was granted, and we received approval to open a new office in Ottawa. The Service also was granted a second special agent position in Hong Kong. The Chief of Mission in Bangkok is currently considering our request for an additional special agent position at that post.

Question. Is the current level adequate?

Answer. This level of staffing has improved the Service's ability to fulfill its protective and investigative duties overseas; however, there are a number of geographic areas where establishing or increasing our presence is necessary.

To date, our requests to establish offices in Moscow and Mexico City, and our request for an additional special agent position in Bogotá have not been approved. We continue to work closely with the Department of State regarding these requests, and we are hopeful that approval will be granted in the near future.

Question. What are the long term costs and benefits associated with establishing these overseas offices?

Answer. The personnel and space rental costs associated with establishing overseas offices are high and have a serious impact on an agency's fiscal resources. However, the cost of not making the commitment to respond to our criminal investigative responsibilities overseas is even greater. Experience has shown that where the Secret Service has established a permanent presence, the quality and quantity of the reporting of counterfeiting activity within the host country are greatly improved. Liaison with foreign law enforcement and foreign banking officials is also enhanced by the use of permanently assigned Service personnel at a particular posting. Many counterfeiting and other financial crime investigations are of considerable duration. The consistency that is inherent in a permanent overseas presence is preferable to the disruption to a case which sometimes is the result of the constant rotation of temporarily assigned personnel.

Question. Does Secret Service's overseas operations duplicate the services of other U.S. or foreign law enforcement agencies?

Answer. In 1996, legislation was passed which gave the Secret Service the particular authority to investigate the counterfeiting of U.S. currency outside the borders of the United States. The expertise that the Secret Service brings to foreign counterfeiting investigations benefits the U.S. economy; however, foreign banking and law enforcement officials also profit from the technical and investigative training that they receive from the Service. The Secret Service has also led the way in investigating the activities of Nigerian organized criminal groups, which have conducted 419 advance fee fraud and other financial fraud schemes on an international basis. The value of our overseas operations is not limited to our investigative mission. The Service's ability to fulfill its unique protective mission also is enhanced by its presence in a given foreign country. Although our agents may not have law enforcement authority in a foreign country, the Secret Service's expertise and investigative resources are valued by the host government law enforcement agencies as valuable tools in meeting our common goals.

Question. Does the establishment of foreign offices require reciprocal actions by the United States to foreign governments?

Answer. The Secret Service frequently hosts law enforcement and other officials from foreign countries when they visit the United States. Often these visits are related to training or information sharing activities.

The Secret Service would defer to the Department of State on all matters concerning reciprocal actions for foreign law enforcement in the United States.

FORENSIC ASSISTANCE FOR CHILD EXPLOITATION CASES

Background: In recent years this subcommittee has provided funding so that the United States Secret Service could expand some of their unique forensic resources. In these times when many state and local police departments are experiencing limited budgetary resources, initiatives such as this one, could prove invaluable in investigations into child victimization cases.

Question. Director Bowron could you provide to the committee your brief assessment of Secret Service's involvement with this program?

Answer. I am pleased to report to this Committee that the Secret Service has taken a very active role in matters involving missing and exploited children by making forensic technology available to Federal, State and local law enforcement. To date, this initiative has been successful. Funding provided has allowed for increasing the forensic/technical staff, and the updating of some forensic equipment. As a result, requests from State and local authorities receive the best and most up to date forensic assistance that the Secret Service can provide. Through the assistance of our polygraph program alone, we have played a role in the resolution of 38 serious child victimization cases. A Forensic Information System for Handwriting (FISH) database with over three-hundred (300) writers has been created allowing for approximately forty (40) searches of pedophile letters. A brochure has been produced, articles have been published in technical and law enforcement journals and forensic experts have presented talks at various law enforcement and National Center for Missing and Exploited Children (NCMEC) clearinghouses on the Secret Service initiative on missing and exploited children. The program is being well received by the State and local law enforcement community, and requests for assistance are increasing with the successes of this program.

We have also assisted the Boston Police Department in a prevention project which involves the fingerprinting and photographing of school children in the Boston Public Schools.

Two representatives of the Forensic Services Division have been assigned to the Federal Agency Task Force on Missing and Exploited Children and took part in the creation of the manual entitled "Federal Resources on Missing and Exploited Children: A Guide for Law Enforcement and Other Public and Private Agencies."

The Secret Service is in the process of providing the Naval Criminal Investigative Service (NCIS) with a FISH workstation which will allow direct connectivity to our FISH system so that they can search our database on missing and exploited children for the U. S. Navy and, perhaps in the future, for all of the branches of the military.

Question. How many states have requested assistance?

Answer. To date, the Secret Service has provided assistance to State and local law enforcement in twenty (20) different states for matters involving missing and exploited children. Several of these states have made multiple requests. For example, State and local law enforcement in California has requested our assistance in fifteen (15) instances; Arizona, Colorado, Florida, and New Hampshire two (2) instances each, and Illinois with two requests, including the recent "Girl X" investigation where a suspect was implicated as a result of the examination. These requests include polygraph and handwriting examinations, audio/video enhancements, age progression drawings, handwriting searches through the FISH system, fingerprint searches through the Automated Fingerprint Identification System (AFIS), and presentations at local NCMEC clearinghouses.

I would like to stress that the Secret Service is providing services and resources to other law enforcement agencies upon their request. We are not investigating, but rather providing resources which might otherwise be unavailable.

Question. Have successes in the program resulted in increased demands?

Answer. Yes, especially in the area of polygraph examinations. As state and local law enforcement become aware of our successes in this area, the demand for polygraph examinations in cases involving missing, abused and child exploitation have increased. By utilizing other areas of forensic science, state and local law enforcement have learned of our involvement in specific cases and, as a result, now request our assistance in cases involving handwriting, voice, and fingerprint identification. With our continued involvement in this initiative, law enforcement organizations have increased their demands for our forensic/technical services.

Question. The Secret Service fiscal year 1998 request includes Violent Crime Trust funding for 20 FTE to support this initiative. The Trust Fund was established to support and expand law enforcement operational activities. It is not meant as a funding source to provide for the costs of base law enforcement activities or to supplant activities which should be supported through the salaries and expenses appropriation. What are your plans for funding these additional personnel in the future?

Answer. Because of the success of this program, it is currently anticipated that we will, prior to the expiration of Trust Fund funding, request to have the funding required to support this effort made part of our Salaries and Expenses appropriation.

WEST AFRICAN PROBLEM AND TASK FORCES

Background: The Secret Service has an established history and success with an operation referred to as the "West African Task Force". The criminal element targeted in this initiative has a history of engaging in various financial crimes, as well as drug trafficking. These groups seem to have initially established themselves in urban areas, however, Secret Service has seen a proliferation of these crimes in areas not traditionally associated with this type of activity, such as Madison, Wisconsin.

Question. Director Bowron, please give the subcommittee an assessment of the West African Crime problem, their activities, and where they conduct these activities?

Answer. With the passage of the Crime Control Bill of 1984, the Secret Service received primary jurisdiction in the investigation of credit card fraud. One of the first groups that the Secret Service began to engage on a regular basis were loosely organized criminal elements within the growing Nigerian population in the United States.

On September 17, 1986, these Nigerian criminal elements were dubbed "The Nigerian Crime Network" by the Senate permanent subcommittee on investigations during hearings on emerging criminal groups. The term "Network" was chosen because the subcommittee could find no evidence of a nationwide "organization" along the lines of traditional organized crime.

The subcommittee determined that the network was made up of regional and local Nigerian organizations which maintain their identities and independence from the network as a whole. Further, the subcommittee statement purported that ". . . unlike traditional organized crime, the organization appears to make no territorial claims, are highly mobile, and may display no clear hierarchy."

The Secret Service distinguishes between structured, traditional organized crime and what is now commonly referred to as organized criminal enterprises. Many of these groups do not follow patterns associated with organized crime in relation to structure. However, these groups do support themselves internally through ethnic association while externally creating enclaves or cells for criminal enterprises on a domestic and international scale.

Since 1986, these Nigerian criminal groups have instituted sophisticated fraud schemes in the areas of advance fee fraud, bank fraud, false identification, immigration benefit fraud, various types of insurance frauds, passport and visa fraud, theft of services, and theft of cars/vehicles for export to Nigeria.

Financial crimes committed by Nigerian criminals have bilked the United States economy out of enormous sums of money. Nigerian criminal elements have become one of the top importers of heroin and cocaine into the United States. It would be difficult to place a financial figure on the damage done to our society by Nigerian criminal elements through drug trafficking and the various financial fraud schemes.

The mobility and growth of the Nigerian criminal groups are being facilitated by the society in which we live. Our nation is a mobile society and the growth of the Nigerian criminal network is being aided by a consumer or customer friendly industry.

The United States Secret Service realizes that, unchecked, these Nigerian criminal elements will increasingly assume the characteristics of traditional organized crime. This is already becoming evident with the increased involvement in the trafficking of narcotics. In the early 1990's the Nigerian criminal problem appears to have spread from primarily metropolitan areas to virtually every small town and county in the United States.

Current Secret Service investigations strongly indicate that the organized Nigerian criminal elements are taking the proceeds derived from financial frauds and investing them into narcotics trafficking and other criminal enterprises. It is also apparent that narcotics proceeds are being intermingled with fraud proceeds. Certainly, it would be a mistake to conclude that the evolution of the Nigerian criminal network is complete.

In response to the significant threat posed by Nigerian organized criminal elements, the Secret Service established twelve multi-agency task forces throughout the country, whose main focus is investigating crimes committed by Nigerian criminals.

These task forces are comprised of agents from many federal agencies, as well as representatives from state and local law enforcement agencies. The Secret Service values the relationships that it has developed with its partners in state and local law enforcement. Our experience has shown that local law enforcement is often the first line of defense against Nigerian crime, and without local law enforcement participation, any national strategy to combat these elements will fail.

Question. The State of Wisconsin has been the target of a fraud known as "advanced fee fraud." I know that in my state alone, over 350 businesses and individuals have been sent solicitation letters. The recipients are told they have been singled out to share in multi-million dollar windfall profits—for doing absolutely nothing. Can you please tell me a little more about this sort of fraud and what your agency is doing to prevent it?

Answer. The perpetrators of advance fee fraud (AFF), known as 4–1–9 fraud after the section of the Nigerian penal code which addresses fraud schemes, are often very creative and innovative. Many of the scam artists, however, simply copy proven techniques developed by others. Perhaps because of this, certain elements of AFF seem to occur in nearly every scheme.

—In almost every case there is a sense of urgency. This is designed to minimize the ability of the victim to verify a deal or a specific part of a transaction, and to limit the exposure time of the participants.
—The victim is enticed to travel to Nigeria or a border country. On arrival, sometimes without visas, the victims are whisked through airports, violating immigration laws.
—There are many forged official looking documents.
—Most of the correspondence is handled by fax or through express mail.
—Blank letterhead stationary and business invoices are requested from the victim along with bank account details.
—Any number of Nigerian fees are requested for processing the transaction, such as attorney fees, taxes or even bribes.
—Each fee is described as the last fee to be required, until errors or oversights are discovered and the cycle starts again.
—The confidential nature of the transaction is emphasized, and victims are cautioned against contacting authorities.
—There are usually claims of strong personal ties to Nigerian officials.
—A Nigerian residing in the United States, the U.K., or other venue may add credibility to the scam by purporting to be a "clearing house" bank for the Central Bank of Nigeria.
—Offices in legitimate government buildings appear to have been used by impostors posing as the real occupants or officials.

The most common forms of fraudulent business proposals fall into seven main categories:

—Disbursement of money from wills
—Contract fraud (C.O.D. of Goods or Services)
—Purchase of real estate
—Currency conversion scams (black money)
—Transfer of funds from over-invoiced contracts
—Sale of crude oil at below market prices
—Extortion

Disbursement of Money from Wills

A Nigerian law firm, claiming that it represented the estate of a devout Catholic sent a letter to a British charity announcing that the devout Catholic had died and left the charity 150,000 British Pounds. They enclosed a counterfeit check payable to the charity for the full amount. The letter explained that this check could only be cashed, and the funds released, once 6,000 British Pounds were transferred to the law firm for death duties.

Fortunately, before proceeding, the charity contacted their bank and discovered that the bank sorting code for the bank on which the 150,000 British Pounds was being drawn, was not correct. Increasing numbers of U.S. charities and churches have been targeted by these schemes.

Contract Fraud

Many small and medium sized businesses, without extensive export experience, have fallen prey to various forms of Nigerian contract fraud. In it's simplest form, contract fraud begins with an order from a Nigerian company and a bank draft for items which are to be shipped via air freight. The Nigerian company usually tries to negotiate a sample or introductory price (to allow it to introduce the products into

Nigeria). Using a real or fictitious law firm, it may convince the exporter that registration, import and other fees are required to bring their products into Nigeria.

In most cases, the first bank draft is real and the goods are shipped. The company becomes convinced that it has established an export opportunity and a new distribution system in Nigeria.

In a few cases, firms have been known to ship goods before a bank draft has cleared, only to discover that the bank draft was a forgery. Once the buyer builds confidence (in cases when legitimate payment is made) with two or three more small shipments (less than $10,000 each), the exporter receives an urgent letter regarding the award of a substantial government contract. The contract requires shipment on an urgent basis (less than the time required for the bank draft to clear). The exporter learns too late that the bank draft is a counterfeit, the goods are not recoverable and the company is untraceable.

Many of the cases of contract fraud begin with the use of actual or forged government tenders. In either case, the recipient is enticed by the size of the contract and the prospect of a Nigerian firm willing to facilitate the award.

Purchase of Real Estate

Another type of Nigerian Advance Fee Fraud involves an offer to purchase real estate using the assistance of a real estate broker or a well established business executive. Once a suitable property is located, the broker or person acting on behalf of the home buyer, is required to pay certain fees to complete the transaction in return for receiving a normal commission.

Conversion of Currency (Black Money)

Over the years, there have been attempts to defraud individuals using elaborate schemes in which people claim they can convert currency. One scheme involved the sale of a liquid which purportedly converted special "black paper" into U.S. currency. While the demonstration was impressive, the sample "black paper" was actually U.S. currency covered with a substance which was easily removed by the liquid. Other schemes involve the conversion of temporarily defaced money.

These types of schemes are prevalent in London, and many Americans have been victimized, often in conjunction with over-invoiced contract schemes. Prior to traveling the victim will have been informed that the funds have been moved from Nigeria. In some cases they will have been required to pay freight charges for the transfer. On arrival the victim contacts his representative and arrangements are made for a meeting. The victim is shown a suitcase of what purports to be millions of dollars which have been coated with a black chemical to circumvent discovery while in transit. The victim is told that a special chemical is required to transform the defaced currency. Once again victims are persuaded to part with their money.

Sale of Crude Oil at Concession Prices

One of the earliest and most prevalent fraudulent business proposals involves the offer of special crude oil allocations at lower than market prices. Like other fraudulent business proposals, the firm is required to pay special registration and licensing fees to acquire crude oil at less than 80 percent of the market price, only to find that the sellers have disappeared once the fees have been paid. Such special allocations do not exist. All sales of Nigerian crude oil are made through the Crude Oil Marketing Division of the Nigerian National Petroleum Corporation (NNPC). Firms with little experience in the petroleum industry can be easily duped by this scam, leaving the victim without his funds or the promised oil.

Re-victimization

An American citizen was murdered in Lagos in June of 1995 while in pursuit of such a scheme. The subject did not possess a valid visa, which indicates he was smuggled into Nigeria by "hosts", either from a border country or through a port of entry in Nigeria. This scheme involves the attempt to rekindle the dying hopes of previous victims of advance fee fraud and is both simple and ingenious. An official looking letter, ostensibly from the Central Bank of Nigeria, is mailed or faxed to previous victims which states that the new military administration has set up a task force (usually the Presidential Task Force) to pay all outstanding debts. In order to facilitate the quick disbursement of the funds, the individual is requested to complete a questionnaire. The letter requests information which the victim probably has changed since first becoming a victim, especially bank account numbers.

Some of these letters are accompanied by an excellent forgery, a page from a Nigerian newspaper, which is sandwiched between real articles. And of course the individual will be advised that certain fees will be required before their monies can be recovered.

The investigation of these cases indicates strongly that advance fee fraud groups are either sharing or selling victims to other groups. It is not unusual to discover that a victim has been contacted by more than one advance fee fraud group during the course of the scam.

Transfer of funds from over invoiced contracts

The most prevalent and most successful cases of advance fee fraud involve the fund transfer scam. In such a scheme, a company or individual will typically receive an unsolicited letter by mail from a Nigerian claiming to be a senior civil servant. In the letter, the Nigerian will inform the recipient that he is seeking a reputable foreign company or individual into whose account he can deposit funds ranging from $28–60 million which the Nigerian government overpayed on some procurement contract.

Initial Offer Letter

Criminals obtain the names of potential victims from a variety of sources, including trade journals and shows, telephone directories, newspapers, magazines, advertising, and commercial libraries. These con artists do not target a single company, but rather send out mailings en masse. Allegedly, Nigerians have bribed postal employees to send out letters at discounted rates, bought off, or otherwise subverted, bank officials to get them to acquiesce in the fraud and permit access to bank premises and facilities, and entered into a relationship with officials to assist them in their schemes.

The sender declares that he is a senior civil servant in one of the Nigerian Ministries, usually the Nigerian National Petroleum Corporation (NNPC). The letters refer to investigations of previous contracts awarded by prior regimes alleging that many contracts were over-invoiced. Rather than return the money to the government, they desire to transfer the money to a foreign account. The sums to be transferred average between $28,000,000 to $60,000,000 and the recipient is usually offered a commission of up to 30 percent for assisting in the transfer.

Initially, the target is asked to provide company letterhead stationary and proforma invoicing, which will be used to show completion of the contract. The victim is advised that the completed contracts will then be submitted to the Central Bank of Nigeria for approval. Upon approval of the contracts, the funds will be remitted to an account supplied by the intended victim.

The victim is also instructed to provide banking particulars, including the name of account holder, the name of the bank and branch, the account number, and bank telephone and fax numbers.

Victims who are foolish enough to provide an account containing large sums of money, such as their company account, run the risk of having it compromised by the criminal. However, the intended purpose of obtaining the account information in the first place is to let the Nigerian know he has "hooked" another victim. Those who open a new account with a minimum deposit to avert the possible plundering of their other accounts are accomplishing nothing, since the account will never be utilized.

The goal of the schemer is to delude the individual into thinking that he is being drawn into a very lucrative, albeit questionable, arrangement. Along with being drawn into the scheme, the target must be reassured and confident of the potential success of the deal, so that he will become the primary supporter of the scheme and willingly contribute a large amount of money when the deal is threatened. The term "when" is used because the con-within-the-con is that the scheme will be threatened in order to persuade the victim to provide a large sum of money to save the venture.

The letter, while appearing transparent and even ridiculous to some, is really quite effective. It sets the stage, and is the opening round of a two layered scheme, or scheme within a scheme.

The criminal will eventually reach someone who, while skeptical, desperately wants the deal to be genuine. The individual usually will not seek outside advice regarding the matter or, if they do, it is only for the purpose of minimizing a negative assessment of the transaction. The individual may even attempt to further assess the situation by requesting more information from the sender.

The intended victim will respond to this initial letter by contacting the schemers either via telephone or facsimile. The main concern at this point is to get the target to send the requested information and/or documents. If the individual does not immediately respond with the information or documents but requests more details, the criminal will respond with plausible answers and plead for quick action on this matter before others find out about the funds.

Advance fee fraud schemers will often urge their victims to keep the business relationship secret. The questionable character of the business proposals offered to potential victims may further discourage them from going to the authorities.

Sense of Urgency

Limiting the amount of time in which the target must make a decision forces him to commit to the next step based on limited information, and before he can adequately reflect on the situation or contact more informed sources. Given the mark's proclivity to want to believe that the deal is genuine, there is increasing pressure to stay in the game.

The perceived time limit also causes the intended victim to feel personally responsible for the success of the venture. The individual reasons that if there is indeed a time constraint (a reasonable assumption) and if these documents are indeed necessary (also reasonable) then, if this "deal of a lifetime" falls through, it will be his fault. By this time failure of the scheme is unacceptable to the individual, and he will typically send the requested documents.

The scam now moves into full swing. The first and most important job of the criminal is to develop the individual's trust and confidence in the venture, which can be accomplished through various means.

Travel to Nigeria

Victims are almost always requested to travel to Nigeria to complete a transaction. Individuals are often told that they will not need a visa to come to Nigeria to close the deal. The Nigerian con artists may then bribe airport officials to pass the victims through Nigerian immigration and customs. In other instances, the victims will be told to travel to a border country or other overseas venue to complete the deal. Upon arrival, the Nigerians will inform the victim that travel to Nigeria will be required, so the victim is transported into the country illegally. Because it is a serious offense in Nigeria to enter the nation without a valid visa, the victim's illegal entry may be used by the criminals as leverage to coerce the victims into releasing funds. Violence and threats of physical harm may be employed to further pressure victims who are often held incommunicado in a hotel room or a Nigerian residence. Numerous American citizens have had to be physically rescued by the American Embassy security teams in the past.

The victim is effectively isolated in a foreign land where all his key contacts and activities are controlled and orchestrated by the criminals. As a result, the individual only sees and hears what they want him to; which is a consistent stream of information reinforcing the belief that the deal is genuine. The individual further believes that he is at times involved in possible illegal acts, and thus will feel legally isolated from seeking the assistance of his or her country in verifying the bona fides of the schemers.

If the intended victim either refuses or does not have the means to travel, it does not mean that the scheme will not proceed. The criminal as a general rule will find a way to circumvent any obstacle presented to them. In these instances it is common practice for the schemers to suggest that a power of attorney situation be arranged to facilitate the execution of required legal documents in Nigeria. And, of course, certain fees will be requested from the intended victim to cover any legal fees incurred.

At no time will the Nigerian criminal ever travel to the United States in furtherance of this scheme. This does not preclude them, however, from requesting significant sums of money to be used for travel expenses for various officials. This money will then join the rest of the advance fees in the bottomless pit.

Official Looking Documents

Victims are often convinced of the authenticity of advance fee fraud schemes by the forged or false documents bearing apparently official Nigerian government letterhead, and seals, as well as false letters of credit, payment schedules and bank drafts.

False Identities/Bogus Agencies

The criminal may establish the credibility of his contacts, and thereby his influence, by arranging a meeting between the victim and "government officials" in real or fake government offices.

Setting the Hook and Advance Fees

If this ploy is effective, and it often is, and if all the other actions have had their intended effect on the potential victim, then the first part of the scam has been completed and the target is committed to the fraudulent scheme. The individual overcomes any lingering doubts and surrenders himself completely to the scheme.

Following the initial rush to have the individual furnish the documents, the criminal may take his time to establish his apparent credibility and the legitimacy of the deal.

First, the intended victim needs time to internally develop a sense of trust and secondly, by the time the individual commits to the scam he will have invested a lot of time in the effort, and he will want to carry out the rest of the process as quickly as possible. Some victims have an ongoing relationship with their Nigerian counterparts for many months.

Now the trap is sprung and some alleged problem concerning the inside man will suddenly arise. An official will demand an up front bribe; or an unforeseen tax or fee to the Nigerian government will have to be paid before the money can be transferred. These can include licensing fees, registration fees or various forms of taxes and attorney fees.

Normally each fee paid is described as the very last fee required. Invariably, oversights and errors in the deal are discovered by the Nigerians, necessitating additional payments and allowing the scheme to be stretched out over several months.

The criminal will usually claim that he has the majority, but not all, of the required funds and the victim visualizes the deal of a lifetime slipping through his fingers. The criminal has now succeeded in persuading the target to believe that:

—the success of the deal now lies solely in his lap

—he has a very limited amount of time in which to react, and

—the criminal has made a believable, but utterly fictitious personal financial sacrifice in an attempt to salvage the deal.

Ultimately, the target does not want to be responsible for the failure of the deal and will typically arrange for the payment of the necessary funds.

Clearing House Bank Operations

Investigation has shown that in a number of cases the advance fee fraud group based in Nigeria will make the initial contact with the intended victim, and at some point that victim will be contacted by a group identifying itself as a clearing house bank for the Central Bank of Nigeria. Sometimes the group will identify itself as the Federal Debt Reconciliation Committee (does not exist) or an Audit Trust Bank. This group has no affiliation to any legitimate bank, and is often nothing more than a store front.

This action is perhaps an effort by the group based in Nigeria to lend additional credibility to the scam by demonstrating an affiliation with a clearing house bank based in the United States, London, or other foreign venue. Or perhaps the effort is made because the group based outside of Nigeria has developed the means to successfully launder the profits.

In some instances, the clearing house banks receive a certain percentage of the proceeds received as commission. The remaining monies are then wired to overseas accounts controlled by other Nigerians who desire access to U.S. dollars. Upon receipt in this account, these Nigerians will pay the group in Nigeria in Naira (local currency) at an exchange rate favorable to the advance fee fraud group. In this manner, the money is successfully laundered and profits expanded.

In another case, the victims were instructed to wire monies to an account that had been opened by a Nigerian living in the United States. The monies wired to this account were then used to purchase luxury automobiles for export to the largest automobile dealership in Lagos.

Investigation indicates that in some cases monies wired by victims are bought at a discounted rate by "legitimate" Nigerian businessmen or illegal Bureaus de Change. It is similar to a situation in South America which may occur between businessmen, the Casa de Cambio, and the cocaine cartels.

It also appears that "legitimate businessmen" are allowing their business bank accounts both in Nigeria and abroad to be sub-contracted by criminals to facilitate the retention and control of the proceeds of criminal activity.

Evidence indicates that proceeds from advance fee fraud are being diverted into the distribution of heroin. A number of suspects that have surfaced in advance fee fraud investigations are known to be targets of narcotics investigations.

In past years it was commonly perceived that operating criminal enterprises between several of the main tribes in Nigeria was virtually non-existent. Further, Nigerian organized criminal groups never dealt with other nationalities or ethnic groups in furtherance of their activities. However, that concept is now antiquated, as the groups have recognized the Nigerian successes and tend to collaborate with them on an increasing basis. Recent investigations have shown that non-Nigerians have begun to work as accomplices with the advance fee fraud groups based in Nigeria.

WHAT IS THE SECRET SERVICE DOING ABOUT IT?

"Operation 419"

Nigerian advance fee fraud (AFF), known internationally as 4–1–9 after a section of the Nigerian penal code, has emerged as one of the most lucrative fraudulent activities perpetrated by organized criminal elements within the Nigerian community.

Worldwide financial losses associated with AFF are conservatively estimated to be in the hundreds of millions of dollars, with victims in the United States perhaps accounting for half of the total.

In response to this growing epidemic, the Financial Crimes Division of the Secret Service initiated a program dubbed "Operation 4–1–9" to combat AFF on an international basis.

These advance fee schemes emanate solely from within Nigeria, though investigations indicate that Nigerians and non-Nigerians in the United States, Great Britain, and other countries, are acting in complicity to further this activity.

Fraudulent "clearing house" banks, with alleged associations to the Central Bank of Nigeria, have been established in the United States and other venues to provide instructions to victims and lend additional credibility to the authenticity of the schemes.

Beginning last year, agents have been assigned on a temporary basis to the American Embassy in Lagos to address the problem in that arena. Agents established liaison with Nigerian officials, briefed other embassies on the widespread problem, and assisted in the extrication of U.S. citizens in distress who had traveled to Nigeria in furtherance of a scam.

Over the last two years, the Financial Crimes Division has been receiving up to 100 telephone calls and 300–500 pieces of related correspondence from victims and potential victims on a daily basis. The Financial Crimes Division has developed a database containing information gleaned from over 50,000 Nigerian scam letters. A link analysis of this data revealed the suspected locations of the top advance fee criminals in Lagos.

Secret Service agents on temporary assignment to the American Embassy in Lagos, in conjunction with the Regional Security Office, supplied this information in the form of investigative leads to the Federal Investigation and Intelligence Bureau (FIIB) of the Nigerian National Police. (The Nigerian police has recently undergone a realignment. The FIIB is now the "D" Department under the Office of Investigations).

The FIIB Special Frauds Unit has been tasked by the Nigerian Government with the enforcement of the advance fee fraud and money laundering decrees of 1995.

This project was designed to provide Nigerian law enforcement officials with investigative leads to enable them to enforce their own jurisdictional venues.

On July 2, 1996, officials of the FIIB, accompanied by Secret Service agents and the Regional Security Office in an observer/advisor role, executed search warrants on sixteen locations in Lagos, resulting in the arrests of forty—three Nigerian Nationals. Evidence seized included telephones and facsimile machines, government and Central Bank of Nigeria letterhead stationary, international business directories, scam letters and addressed envelopes, as well as files containing correspondence from victims throughout the world.

On August 1, 1996, Commissioner of Police—FIIB Special Fraud Unit, appeared on the Nigerian Television Authority (NTA) and addressed a press conference to announce the arrests of forty-three "419 operatives" in the Lagos area with the technical support and assistance of the United States Secret Service.

The results of "Operation Sweep" were also extensively covered in a number of Nigerian newspapers.

In December 1996, Secret Service agents traveled to Nigeria as representatives on a State Department sponsored trip to discuss money laundering issues with Nigerian government officials. Purportedly an additional one hundred and twenty-eight Nigerian criminals have been arrested as a result of follow-up investigations conducted in conjunction with "Operation Sweep."

In addition, Secret Service agents and Embassy Officials met with ranking officers of the Central Bank of Nigeria (CBN), including the Deputy Governor for Domestic Monetary and Banking Policy.

The first meeting, held at the Bank Examination Department of the CBN, concentrated on aspects of money laundering and advance fee fraud. The Director of the Bank Examination Department explained that his department has the responsibility to monitor banks for compliance with the new money laundering decree, and the power to place either a "caution" or "freeze" on bank accounts that exhibited suspicious behavior. A caution limits the account so that only deposits can be made

to it; withdrawals are not allowed. A freeze makes the account completely inaccessible.

In response to our inquiry, the Director stated that if he were supplied with account information linking it to questionable activities, the Bank Examination Department could put a caution on the account pending an investigation.

The Director further explained that there have been currency transaction reporting requirements placed on financial institutions which are similar to those in the United States, but that he does not have sufficient staffing or training to adequately monitor the activities of the numerous banks and bureaus de change which operate in Nigeria.

At the conclusion of the meeting the CBN officials suggested that another meeting involving additional departments, more involved in advance fee fraud, and the Deputy Governor of the CBN, be held the following week.

The aforementioned meeting was held on July 9, 1996, in the office of the Deputy Governor for Domestic Monetary and Banking Policy.

At that meeting, ways were discussed by which the Central Bank, the U.S. Secret Service, and the American Embassy might work together to combat advance fee fraud and money laundering. The Deputy Governor approved the idea of the Bank Examination Department intervening on accounts identified by the Secret Service as associated with the receipt of the proceeds of advance fee frauds. In particular, The Foreign Operations Department and the Bank Security Department agreed to accept account numbers for investigations and, in turn, any derogatory information developed about foreign transfers would be shared. (The Central Bank of Nigeria is responsible for the monitoring and regulation of commercial banks in Nigeria).

A frank discussion on the nature and consequences of advance fee fraud was held. The bankers espoused the standard Nigerian argument that the victims were also criminals; but after much discussion, conceded they were not criminals of the same caliber, and that not all advance fee fraud involved the simple transfer of ill-gotten money. Phoney bequests to churches and other charitable organizations, fraudulent oil deals, and unpaid business orders also generate considerable advance fee fraud money. The bankers also agreed that advance fee fraud hurts the image and business climate of Nigeria. The meeting concluded with pledges of future cooperation and with all sides grateful for the opportunity to meet and discuss these issues.

Since these meetings, the Financial Crimes Division has forwarded numerous bank accounts known to be associated with the receipt of advance fee frauds to the Central Bank of Nigeria. While this correspondence is always acknowledged, the Secret Service is not aware of any arrests of suspected criminals or seizure and return of any monies associated with the accounts.

The Secret Service has adopted a three-pronged approach of investigation, interdiction, and public education to combat this problem. It is anticipated that public education will have a significant impact on reducing the fraud losses associated with these schemes.

It is not uncommon to receive a frantic telephone call from family members or attorneys of clients who are insistent on traveling to Nigeria in furtherance of these scams. Our agents have located victims in foreign venues and have assisted in their removal from a potentially dangerous environment and facilitated their safe return to the United States.

The Secret Service has issued a public awareness advisory designed to inform and educate U.S. citizens about these schemes.

In a cooperative effort with members of the public and private sectors, copies of this advisory have been reproduced and included in publications which reach the groups that appear most vulnerable to these schemes, including the elderly.

The American Embassy in Lagos has reported a dramatic drop in the numbers of U.S. victims that come to their attention on a monthly basis. We believe that this can be directly attributed to the public awareness campaign initiated by this Service.

We continue to work closely with the Departments of State, Justice, and Commerce, the American Embassy in Nigeria, Interpol, Scotland Yard, and Swiss, German, Canadian and French Law Enforcement officials, to name just a few, in an attempt to minimize the losses associated with these schemes. The Secret Service is currently planning a news media blitz scheduled for this summer. Our Public Affairs Division has contacted the major print and television networks who have shown an interest in assisting us in informing the American public about these schemes.

Investigations of Note

Investigative leads provided by a recent case in New Jersey indicated that advance fee fraud was being conducted by a group from South Florida. Documents pro-

vided by a victim from Japan indicated advance fee fraud, but the associated documents were written in the grammatical style of an American, not a Nigerian.

Investigation proved that a white male in his early 60's with a background in the banking industry acted in complicity with Nigerian criminals in Lagos to defraud victims throughout the world of over $8 million.

The defendant cooperated in this matter and was escorted to London where he participated in a "lure operation", resulting in the arrests of three of his accomplices. These accomplices are currently awaiting extradition to the United States. A fourth accomplice was arrested in Lagos, Nigeria.

Wire transfer funds cannot be transferred directly from the United States to Nigeria, they must pass through a U.S. correspondent bank account—usually in New York. Sometimes victims will report they have wired monies to an account in New York where, in reality, the money merely passed through this account toward its final destination, often a Nigerian bank.

In one of the first cases prosecuted in the United States, Nigerians, operating out of a store front in Jersey City, N.J., bilked victims from around the world of at least $5 million.

Calling themselves the International Clearing House of the Central Bank of Nigeria, the criminals contacted victims, advising them that they had received their file. The victims were then told that the file reflected that certain fees had not been paid and the contract funds could not be remitted until said fees were paid. Payment instructions were then provided to the victims.

The criminals operated through at least fourteen separate bank accounts. When the required fees arrived at the account, the criminals kept 30 percent and re-wired the remaining funds at the direction of their accomplices in Nigeria.

According to a cooperating defendant, the monies were wired to legitimate Nigerian businessmen overseas who had "purchased" the money from the 4–1–9 group in Lagos. Thus, the 4–1–9 group was able to effectively launder the illicit proceeds and convert it to local currency.

Question. Can you tell me what relationship "Advanced Fee Fraud" schemes have with our drug problems?

Answer. Evidence indicates that proceeds from advance fee fraud are being diverted into the distribution of heroin and cocaine. A number of suspects that have surfaced in advance fee fraud investigations are known to be targets of narcotics investigations.

Victims from around the world were instructed to wire transfer funds to an account controlled by a Nigerian residing in New Jersey. These funds were then used to purchase luxury automobiles for export to one of the largest car dealerships in Lagos. This dealership was known to launder illicit proceeds of narcotics traffickers. A Title I wire tap investigation was conducted in conjunction with the High Intensity Drug Trafficking Area (HIDTA) Task Force in Newark, N.J. It was learned that the owner of the dealership purchased the illicit proceeds at a discounted rate from criminals in Lagos. When the criminals presented a copy of the wire transfer, the owner of the dealership paid off in local currency. The dealership expanded profits by purchasing the illicit funds at a discount, laundered those funds through the purchase of luxury automobiles, and ultimately sold those automobiles at a substantial profit in Lagos.

The controller of the bank account in New Jersey was also laundering the cash proceeds of narcotics trafficking. Heroin was shipped into the United States from Nigeria and was hand carried to Chicago where it was distributed. The cash proceeds were then delivered to the Nigerian in New Jersey who "sold" the cash to Nigerians in the U.S. Relatives or associates of the Nigerians who purchased the money then paid off at an advantageous exchange rate to the controllers of the heroin in Nigeria. The cash was effectively laundered, profits expanded through the exchange rate, and converted to local currency.

Chicago is the center for the distribution of heroin throughout the Midwest. It is estimated that Nigerian traffickers control seventy percent of the heroin being imported into Chicago.

Nigerians are considered mid-level brokers and are the primary source of heroin for street level dealers.

Nigerian criminal enterprises are often engaged in myriad criminal activities. Though the Secret Service does not have jurisdictional authority to investigate the trafficking of narcotics, its financial crime investigations regularly place it in the center of drug related cases.

Secret Service investigations into the money laundering practices of Nigerian organized criminal groups have shown that the individuals and institutions responsible for laundering the proceeds of advance fee are also laundering the funds associated with the trafficking of narcotics.

The illicit proceeds of financial crimes are being used to enhance the lifestyle of the Nigerian criminal, to purchase durable goods for export to Nigeria, to use as a "foreign exchange" mechanism or underground bank, to invest in legitimate business throughout the world, and, as previously mentioned, to support the trafficking of narcotics.

Question. Are you aware of any cities in Wisconsin in which these fraudulent activities have been associated with increased drug trafficking and arrests?

Answer. No.

Question. In what cities are your "West African Task Forces" currently operating?

Answer. The Secret Service currently maintains Nigerian Task Forces in the following U.S. cities: Atlanta, GA, Baltimore, MD, Boston, MA, Chicago, IL, Dallas, TX, Greensboro, NC, Houston, TX, Miami, FL, Newark, NJ, New York, NY, Washington, DC, and Los Angeles, CA.

Question. What agencies are currently participating in the Task Forces?

Answer. Participating agencies include, but are not limited to, representatives from the following agencies: Drug Enforcement Administration, Federal Bureau of Investigation, Immigration and Naturalization Service, Internal Revenue Service, Postal Inspection Service, Social Security Administration, State Department Office of Diplomatic Security, and Customs Service.

In addition, there are numerous representatives from state and local law enforcement and prosecutors involved in these task forces.

COORDINATION WITH OTHER TREASURY OFFICES

Background: Director Bowron, the Treasury Department is undertaking an effort to create an Office of Professional Responsibility" (OPR). According to the House report language establishing this effort OPR would have the authority to: undertake its own investigations such as "Good Ol' Boys"; convene panels of outside experts to review allegations; and provide quality control of all internal affairs offices. Recently, we received a letter from the Under Secretary for Law Enforcement that OPR will provide essential fact finding and independent assessment of bureau actions and policy implementation at Customs, Secret Service, ATF, FLETC, and FinCen.

Question. What is your understanding of what this office's role was intended to be?

Answer. It is the Service's understanding that the role of this new office will be essentially as you have described it. We believe the office will be created with the responsibility to cover the gap in oversight of senior level managers that currently exists between the Departmental Inspector General and the "internal affairs" offices of the individual law enforcement bureaus. The Service also understands that the oversight responsibilities of this new office will not interfere with the Inspector General Act, or the exemptions granted by this Act to the Secret Service as they relate to classified and highly sensitive protection information.

Question. Have you discussed with Treasury their draft OPR plan? If so, will you share those comments?

Answer. I had an impromptu conversation with Under Secretary Kelly concerning an early iteration of the OPR plan. I am not certain which version of the plan has been adopted, and therefore, I am not prepared to discuss the tenets.

Question. Your agency has, in effect, an internal affairs division and the Treasury Department also has an Inspector General. Does the OPR, as described, result in an excess of oversight?

Answer. As I have stated previously, I have not been briefed on which version of the OPR concept was finally adopted. Therefore, I am not in a position to discuss how the plan would complement existing oversight policy.

U.S. CUSTOMS SERVICE

BORDER DRUG SEIZURES

Background: The drug seizures along the Southwest border rose between 1993 and 1995. Officials dealing with drugs acknowledge that the seizures are small compared with the mountain of drugs that traffickers are believed to smuggled from Mexico each year.

Marijuana seized in 1995, 119 tons versus Marijuana believed to enter the U.S. by land, 4,000 tons

Cocaine seized in 1995, 11 tons versus Cocaine estimated to pass from South America to the U.S., 330 tons

Heroin seized in 1995, 89 pounds versus Heroin estimated to arrive from Mexico to the United States, 5.5 tons (1 ton equals 2000 lbs)

Question. According to Office of National Drug Control Policy (ONDCP) figures Customs is only seizing one percent of all drugs smuggled into the United States. What's Customs doing to increase drug smuggling interdiction efforts?

Answer. In the past two fiscal years, U.S. Customs has witnessed many significant successes and milestones in narcotics interdiction, resulting in large part from Operations Hard Line and Gateway. In fiscal year 1995, Customs seized 61 percent of the cocaine, 51 percent of the marijuana, and 85 percent of the heroin seized by all federal law enforcement agencies combined.

In fiscal year 1996, Customs continued successful interdiction of drug shipments by seizing record amounts of narcotics. For the first time in our history, the total amount of narcotics seized by Customs in one year exceeded 1 million pounds. As part of this record haul, Customs effectively removed over 82 metric tons (180,947 pounds) of cocaine from circulation in the United States through strong interdiction and investigative efforts. It is important to note that narcotics shipments that are intercepted and seized at the border by Customs are in large wholesale quantities and are at extremely high purity levels. The role Customs plays in interdicting these large, high-quality narcotics shipments through the control of our Nation's border is a vital and integral part of the national narcotics strategy. According to seizure statistics in the National Drug Control Strategy, this accounts for approximately 18 to 23 percent of the total amount of cocaine that enters the United States annually. In the process of achieving these excellent results, Customs also reduced the incidence and related violence of port running on our Southwest border by 59 percent over the baseline year of 1994.

Anticipating an increase in smuggling within the commercial cargo environment along the Southwest border as the pressure remained in the passenger processing environment with Hard Line, and between the ports with the Border Patrol's Operation Hold the Line and Gatekeeper, Customs intensified its cargo efforts with impressive results. Southwest Border port infrastructure has been fortified and Customs Inspectors have been equipped with better tools to perform more intensive narcotics exams. Customs currently has two operational fixed site truck x-ray facilities in Otay Mesa, California and Calexico, California. Customs has procured 3 additional truck x-ray systems for El Paso, Texas (2 systems), and Pharr, Texas. These systems are scheduled to be operational by October of 1997. In addition to fixed site truck x-ray equipment, Customs is testing Mobile Truck x-ray and Gamma-ray nonintrusive examination equipment. Customs has also paid additional overtime for pre-primary operations; purchased over 1,700 sets of body armor; funded integrity training; bought 126 additional vehicles and purchased radios and other enforcement equipment.

Customs has received pledges from over 800 trucking companies on the Southwest Border to better police their trucks and warehouses in order to prevent the exploitation of legitimate carriers and cargo by drug cartels under a program called the Land Border Carrier Initiative Program. In addition, Customs supports the work of the Business Anti-Smuggling Coalition, (BASC) a business group working with its members to eliminate smuggling within their shipments.

As a result of these technological advances and port infrastructure improvements, seizures in the Southwest border commercial cargo environment have doubled in each of the past two fiscal years.

Since the initiation of Operation GATEWAY on March 1, 1996, Customs narcotic enforcement activities in Puerto Rico have increased dramatically. In comparing the first year of GATEWAY to the same period the previous year (March 1996 to February 1997 versus March 1995 to February 1996), cocaine seizures have risen 38 percent—from 23,324 pounds in the pre-GATEWAY period as compared to 31,265 pounds since GATEWAY began. Also, there has been a 131 percent increase in the examination of full inbound containers. An additional 242 Outbound containers have been examined as well.

As a direct result of outstanding air interdiction efforts by Customs, cross U.S. border air smuggling activity is at a level less than one-quarter of what it was in 1982. In fiscal year 1996, while continuing to maintain Customs success in preventing U.S. airways from being exploited by drug traffickers, Customs aircraft provided invaluable support to drug interdiction and investigative efforts throughout the hemisphere, by contributing to the seizure of over 61,000 pounds of cocaine, 48,000 pounds of marijuana, and $18.3 million.

In addition, Customs Office of Investigations assigns significant investigative resources to those geographical areas where the majority of the narcotics enter the United States. However, intelligence developed as the result of investigative efforts exploiting Ports Of Entry (POE) seizures to their ultimate destination, through the

utilization of "controlled deliveries," indicates the drug smuggling organizations' "command and control" logistic centers are located at inland geographic locations away from the POE.

Customs maintains an aggressive investigative posture by seizing drug smuggling organizations' contraband, proceeds and assets; arresting and prosecuting organizational members and their hierarchy; and infiltrating additional organizations utilizing informants, cooperating defendants, undercover operations, T–III wire taps, and long term surveillance. This specialized selective enforcement combines the resources of intelligence, technology, inspections and investigations. Information acquired from these enforcement actions are then fed back to the inspectors as to the smuggling routes, concealment methods, etc.

Customs strives to create a constantly changing and unpredictable "border" environment to challenge the smugglers, thereby forcing them to continuously modify their smuggling tactics making them more vulnerable to mistakes, seizures and arrests. For Customs to be successful in stopping the flow of narcotics across our borders, Customs must maximize the inspection/seizure process to build the "investigative bridge" between the interdiction of the narcotics and the ultimate recipient.

This approach is designed to enhance both internal and external cooperation and intelligence sharing, while maximizing the unique investigative and interdiction capabilities of Customs.

Question. Can we construct physical barriers to prevent smuggling, such as a fence?

Answer. The Customs Service has the authority to construct physical barriers to prevent smuggling within the ports of entry.

With the advent of Operation Hard Line, Customs began a port of entry infrastructure improvement initiative to address the problems of border violence and narcotics smuggling. Through this initiative Customs is acquiring additional fencing, barriers, bollards, and stop-sticks (controlled deflation of tires) to "harden the ports" along the Southwest border. Customs is now in the process of further strengthening and tightening the Southwest border by making numerous additional infrastructure improvements.

The agency has taken action by dedicating over $4.76 million to acquire fixed assets which include additional fixed bollards, jersey barriers, stop-sticks, as well as lighting improvements, speed bumps, and fencing for the ports of entry along the Southwest border. These fixed assets will improve port security and harden the Southwest border ports of entry. Also, Customs is in the process of acquiring automatic license plate readers (LPRs) which will be installed in all primary vehicle lanes in Southern California and some Arizona ports of entry. The Land Border Passenger Automation Initiative contained in the fiscal year 1998 President's budget requests funding to expand the installation of LPRs across the Southwest border and at selected high threat Northern border ports.

Question. Are you working with ONDCP to develop a coordinated drug policy? Are you using the ONDCP figures for levels of drug trafficking? Can these coordinated efforts stop the drugs from coming across our Borders?

Answer. Customs entire approach is centered around the ONDCP's National Drug Policy, (especially goals 4 and 5) which the Customs Service played a significant role in developing. ONDCP's National Drug Control Policy states, in part, "Our objective should be to constrain the activities of criminal drug organizations in all aspects of the drug trade and progressively drive them out of business. No dimension of their operations should be immune from counter action . . ."

The Customs National Narcotic Investigative Strategy envisions doing just that, dismantling and disrupting smuggling and transportation cells of drug trafficking organizations. Custom is utilizing every facet of our enforcement and investigative facilities to combat the inflow of drugs across our nations borders and the outflow of narcotic proceeds. Identifying and targeting suspect shipments at the Port of Entry and interdicting narcotics at the first opportunity denies the smuggler the means of continuing his illegal drug trade. Broadening of Customs investigative efforts through the use of exploiting these seizures through controlled deliveries, Title III wiretaps, and enhancing Operations Hard Line and Gateway, will produce a cyclical effect of providing intelligence and tactical information back to the Ports of Entry to effect more enforcement actions. This will contribute to the dismantling and disruption of drug smuggling organizations. The dismantling and disrupting of drug smuggling organizations is an outcome, an effective measurable change, that will have a significant impact on the flow of drugs into and through the United States.

Question. Are there uniform prosecution guidelines along the Hard Line and Gateway borders?

Answer. Each U.S. Attorney's Office assesses their threat level and prosecutorial interest encompassing their varying community standards and sets their "filing of prosecution" guidelines accordingly.

Question. Do these varying prosecuting limits impact the effectiveness of our drug interdiction?

Answer. The drug interdiction efforts remain the same for Customs throughout the Nation. Prosecution limits vary according to districts based on volume, workload, and determination of the U.S. Attorney's Office and/or Department of Justice. Some offices in the Hard Line area, which are impacted by a high volume of seizures have programs established to refer prosecution to the State. This has been very successful in introducing the less obtrusive smugglers into the criminal justice system. The programs allow for repeat offenders to be elevated to the Federal system. This program also allows for non-U.S. citizens to be excluded from entry into the U.S., further impacting the drug smuggling organization's transportation operation.

Question. Are arrests for all categories of contraband seizures (i.e. drugs, weapons, child pornography, money laundering, etc.) given the same weight for prosecution along the southern border?

Answer. The prosecution of various categories is inherent to the "community standards" and the severity of the contraband. Each case presented to the U.S. Attorney is independently reviewed for prosecution merit and effect on the community. The weighting of cases for prosecution is dependent upon the U.S. Attorney's Office with input from the investigator.

PORTS OF ENTRY

The Secretary of Treasury establishes Ports of Entry through a delegation of authority from the President of the United States. The Secretary of Treasury, advised by the Commissioner of Customs, coordinates this designation with other Federal inspection agencies, and when appropriate, with Canadian and Mexican officials.

In developing recommendations Customs established specific workload and other criteria in evaluating whether a location should be designated a port of entry. According to your report on the criteria used to designate ports of entry. These criteria establish whether the proposed port of entry is a worthwhile investment for the Federal Government and concurrently beneficial to the general area and its economy. It would seem to me that the designation would, in most instances, provide benefits to the economy of the newly designated area. I am more concerned about the investment for the Federal Government.

Question. Although we have reviewed your Specific Port of Entry Criteria I still have questions about the information Customs collects and how the information is weighted to ensure port of entry decisions are made on an independent cost basis?

Answer. Although there is no specific weighting of the collected data for port of entry applications, Customs carefully evaluates the information. We evaluate the actual and claimed potential workload activities for the applicable criteria. Wherever possible, we attempt to provide independent projections of the probable annual transactions and other factors. These factors are then evaluated to insure all interested parties are handled fairly and in accordance with published criteria.

Question. The Criteria requires the need to include the following facilities:

—Wharfage and anchorage adequate for ocean going cargo/passenger vessels if a water port;

—Cargo and passenger facilities;

—Warehousing space for secure storage of imported cargo and passenger facilities;

—Administrative office space, cargo inspection areas, primary and secondary inspection rooms and storage areas and other space necessary for Customs operations.

Do all the existing ports of entry include these facilities?

Answer. At existing ports, the facilities required to support Customs operations must be available. The extent of these facilities generally reflects the type of port and the workload.

Question. In your report you state the criteria includes consideration of actual or potential Customs workload levels. How are the potential Customs workload levels projected?

Answer. The potential workload levels included in the criteria apply to deriving projected workload from the current period. For example, if an application includes workload for fiscal year 1996, Customs might derive a projected workload level for fiscal year 1997. This, usually, would be derived by projecting actual figures from part of the year. If there were seasonal or other factors involved they would be in-

corporated in the projection. The projection would be used to validate the workload trend.

Question. Would you please provide a complete report on potential ports of entry sites for committee review?

Answer. There are currently about 300 Customs ports of entry. These are the only ports for which Customs collects data. Customs does not maintain a list of potential ports of entry sites. If a site is currently not a Customs port of entry, we do not collect any data on the location. Since there is no Customs presence at these locations, there is no data on the activities included under the port of entry criteria.

CHLOROFLUOROCARBONS

The importation of refrigerants, belonging to the class of chemicals known as CFC's (chlorofluorocarbons), have been banned in the U.S. in conjunction with the international agreement known as the Montreal Protocol. This agreement, signed in 1987, established a phase-out schedule for CFC's leading to their outright ban in the United States and other developed countries as of January 1996. This includes a chlorofluorocarbon known as Freon or CFC–12, which is known to destroy the ozone layer.

The National Chlorofluorocarbons (CFC) Enforcement Initiative which combines the talents of the Department of Justice, the U.S. Customs Service, the Environmental Protection Agency and the Federal Bureau of Investigation, was designed to stop the flow of the banned chemicals into the United States. Customs role includes detection and deterrence of smuggling of CFC's into the United States.

Question. Operation "Cool Breeze" has already resulted in over a dozen convictions of CFC smugglers, including $1 million in criminal fines and the imprisonment of the violators. Please describe Custom's role in Operation "Cool Breeze."

Answer. Operation "Cool Breeze" is an operation started by Customs in Miami. Customs has been the lead agency in all the convictions mentioned in the question. The Customs agent who initiated these cases received the EPA's Environmental Award for 1996. This was the first time that a non-EPA employee has received such an award. From Miami, CFC cases have spread out throughout the country. Customs agents are actively pursuing these cases and we can expect further convictions in the near future. Customs is working in cooperation with agencies mentioned above with the addition of the Internal Revenue Service (IRS) which has the function of collecting the excise taxes.

Question. In January, Customs assisted in the indictment of 12 people charged with smuggling 100 tons of CFC's into the U.S. However, that is a tiny fraction of the 10,000 tons, valued over $400 million, that is estimated to enter the country illegally each year. It is my understanding that Customs is currently charging an excise tax of $5.85 per pound on CFC–12. If 10,000 tons is being smuggled into the United States, the government is losing over $117 million in lost taxes annually. What steps is Customs taking to detect the smuggling of this chemical into the United States? In other words, what initiatives in your fiscal year 1998 budget request will reduce the level of smuggling of Freon?

Answer. The fact is that no one knows the amount of CFC–12 which is being smuggled into the U.S. We do know, however, that there is a black market in CFC–12 and we are currently mounting efforts to deal with it. We are cooperating with all law enforcement agencies both domestic and foreign.

Customs does not collect the excise tax because it is not assessed until the first sale or use in the United States. The IRS is currently collecting the $6.25 per pound excise per the implementation of the Montreal Protocol. Customs has notified the IRS of some $90 million in excise taxes due on imports, and IRS is working on this. They have assessed over $50 million so far. Customs is using an automated profiling system to identify means of smuggling. Right now, there is practically no CFC–12 coming into the U.S. described as such. The shipping documents do not describe it as CFC–12. Prior to 1996 CFC's were described as CFC's and Customs has captured that data and is working and developing historical cases. The black market is driven by the excise tax and the weather. The non-payment of the excise tax is the profit margin for the black marketeer. As with drugs, interdiction is not the total answer. The fact that CFC's get into the country does not mean that Customs is finished with them. Some of our best cases have been historical cases worked with other agencies. From within base resources, Customs hopes to increase the activity of our contraband enforcement teams, to pay for informants and information, and to mount special operations in fiscal year 1998.

Question. What kind of an impact can we expect from this increased focus on Freon smuggling, in other words, what increased level of revenue?

Answer. As was mentioned above, Customs does not collect the excise tax but Customs has and will continue to notify IRS of any CFC's that they are aware of. The impact will hopefully be an increased detection of what has become an ever more sophisticated smuggler.

Question. Customs has seized a substantial quantity of smuggled Freon, which is currently being stored in its evidence warehouses. Is disposal of the seized Freon becoming a problem for Customs? If so, what action is being taken to dispose of this HAZMAT?

Answer. Customs is incurring costs for the storage of the seized Freon. Seizures of pre-1996 Freon have been used by the Defense Department to meet their military needs. We are conducting talks with EPA and Justice to arrive at a means of disposal of post 1996 Freon that will comply with the Montreal Protocol. There is currently disagreement as to whether destruction or sales to Article 5 countries should be the means of disposal. Destruction is presently a very expensive proposition costing more than the value of the CFC.

CORRUPTION

Background: A Blue Ribbon Panel provided recommendations for dealing with allegations, of corruption and mismanagement by Customs employees in the Southwest region. The Panel issued a report with 50 findings and 51 recommendations. According to a GAO report issued in September 1996, Customs has taken action on 47 of the recommendations and is still reviewing the remaining three.

Question. How will Customs guarantee the success of the recommendations?

Answer. As reported to the General Accounting Office in 1996, several oversight mechanisms have been put into place to alert Customs managers to problem areas in their offices. For example, the Office of Policy and Oversight was established in the Office of Investigations (OI) to look for trends and patterns of systemic noncompliance with regulations and policies. Additionally, OI instituted a Discipline Review Board to ensure consistency in disciplinary actions and a Hardship Review Board to oversee reassignments of all OI and some Office of Internal Affairs (IA) personnel to ensure adequate consideration is given to claims of hardship due to the reassignments. Treasury Enforcement is currently performing an evaluation of Customs Office Internal Affairs to ensure the program's effectiveness and efficiency. Further, IA has developed performance measures for investigations and management inspections as well as an automated management inspection information system to assist with trend analysis of inspection findings. Finally, enhanced training for special agents and Customs employees and periodic notification of integrity and whistle blower protection issues has served to institutionalize many of the corrective actions put into place following the blue ribbon panel report.

Future actions to implement the three recommendations not yet implemented will await funding identification.

Question. Have there been arrests for alleged corrupt activities since the Blue Ribbon panel issued its report in August 1991?

Answer. Yes.

Question. What has been the level of these arrests since that time?

Answer. See the chart below. Our automated case management system was not in place until fiscal year 1994. We were unable to retrieve information on prior years from the case management system.

Customs Employees Arrested for Corruption[1] Fiscal Years 1994–97

Fiscal year/Employee Type	*Number*
1994:	
Inspector	1
Canine Enforcement Officer	1
Total	2
1995:	
Senior Inspectors	5
Inspectors	2
Air Command Duty Officer	1
Total	8
1996:	
Management Program Technician	1
Senior Operational Analysis Specialists	2

Fiscal year/Employee Type	*Number*
Supervisory Inspector	1
Senior Inspectors	2
Inspectors	2
Mail Technician	1
Total	9
1997:	
Paralegal Clerks	3
Senior Inspectors	4
Customs Explorer	1
Total	8

[1] Corruption is defined as unlawful acts by an employee involving the misuse of his/her official position for actual or expected material reward or gain. Source: IA SARs as of 5/7/97.

Question. At what level have these arrests occurred—in the ranks or with the management levels?

Answer. As the chart shows, these arrests have been almost exclusively in the ranks.

Question. I know there have been discussions about the rotation of personnel to deter corruption. Are there any examples where this philosophy has succeeded with other agencies?

Answer. Customs has not benchmarked other law enforcement agencies to determine if they have a specific program of relocation as an anti-corruption technique. Customs' perception from previous discussion is that other agencies do not use relocation in this manner. We understand that other agencies and police departments reassign their investigative personnel as needed to address organizational workload. Customs personnel are rotated through assignments as a component of professional development and career advancement, but not as a specific anti-corruption procedure.

NON-INTRUSIVE INSPECTION (NII)

Background: In 1991, Congress directed the Department of Defense to assist Customs in their effort to interdict and reduce the supply of drugs and other contraband from entering the United States. DOD applied their technology and systems expertise to increase Customs' ability to monitor ground, air and maritime border traffic. Technology was specifically directed at increasing the amount and effectiveness of commercial vehicle and container inspections. Additional advances were made in increasing surveillance and tracking technologies, along with computer data systems and other electronic support.

Question. What new technologies are being employed in interdiction?

Answer. There are two parts to the answer. The first is what enhancements are we making to existing technology, and second, what technologies are we employing that we have not used before. In the first part, Customs has been employing x-rays in the non-intrusive inspection of baggage, small parcels and mail packages for over 20 years. More recently, innovations in the design of large, more powerful x-rays have allowed us to expand our targets to vehicles and empty and partially filled truck containers, through the deployment of fixed truck x-rays at two of our Southwest border ports, and a mobile truck x-ray that can be moved from one port to another rapidly. These systems have proven so effective that funding has been committed for six more fixed truck x-rays and two more mobile systems. In another example, the popular "Buster", a gamma-ray densitometer that is used to detect contraband in places such as car door and truck panels, has benefited from improved detector and electronics technology, making it safer and more sensitive in its use.

Regarding technologies Customs has not employed before, there are several systems we are in the process of evaluating and which appear very promising. One is a transportable gamma-ray imaging system that is used to determine if contraband is being hidden in empty tanker trucks or other conveyances crossing the border. With some improvements this system will be a valuable addition to our arsenal of tools to inspect vehicles at land border ports. Another example of new technology is narcotic particle detection systems recently deployed at selected airports and seaports. The U.S. Coast Guard and Canadian Customs have had some success with these systems and we are guardedly optimistic. Some of these devices are being tested to see if narcotic "swallowers" can be rapidly screened from breath, perspiration or saliva tests at the airport, prior to the more costly and time-consuming hospital x-ray. Other new technologies include an ultrasonic device for verifying the contents

of liquids in 55 gallon drums and determining if packages of contraband are secreted inside, and the use of geo-positioning systems (GPS) and covert infrared tags for investigative tracking and surveillance of vehicles.

As part of the fiscal year 1998 President's Budget, Customs is requesting funding ($12.0 million) to purchase two higher energy fixed-site seaport non-intrusive inspection systems to replace time-consuming physical examinations (requiring unloading, examination, and reloading) of suspect loaded containers. This system will allow Customs to examine the contents of loaded, sea-going containers to determine if contraband is present without physical examination. Customs also seeks funding ($3.0 million) to continue the development of automated targeting systems (ATS) to better direct our inspection efforts to those shipments/containers with the highest probability of containing contraband. Once our evaluation of the ATS is complete, the system will be implemented at high-risk land and sea ports of entry. These combined systems would have the capability to conduct the equivalent of approximately 120,000 intensive inspections per year, enabling Customs to maintain its vigilance in the face of an expanding, sophisticated threat and accommodate increases in trade volume.

Question. How do you decide where to put this new technology?

Answer. Currently there are three criteria used to determine where we place technology. The first is where intelligence estimates and past operational experience tell us where the major threat exists. This may be a single port, a group of ports, or a region. The three regions with current Customs priority are the Southwest border, Puerto Rico and the Virgin Islands, and the Southern Florida area. The second criteria is dictated by the nature of the technology itself. The truck x-ray, for example, is designed to inspect vehicles and empty and lightly filled trucks, and would only be deployed at a land border crossing. Mobile assets, such as the mobile x-ray, might be deployed at various ports adjacent to where the fixed systems are, to catch the smugglers that try to avoid the fixed system by trying to enter at a nearby port, or rotated throughout a group of ports on an unpredictable schedule, keeping the smuggler in the dark as to where it may turn up next. The third criteria is by Congressional mandate, e.g., the technology included in the Anti-Terrorism Bill of 1997 will be deployed at major international airports only.

As more technology becomes available, a fourth criteria may develop that relates to how well some technologies work with others. This will be the objective of a joint Customs/DOD operation in South Florida, where technologies will be applied in combinations to see if there is a synergistic effect. This operation is scheduled for next year.

Question. What is better, mobile or fixed detection systems?

Answer. With all other factors equal, e.g., types of targets, performance and cost, mobile systems are generally better, but factors are rarely equal. In addition, there is the compromise of "relocatable" systems, i.e., those that can be dismantled and moved from one location to another in a matter of days or at the worst one or two weeks. On the one hand mobility brings the valuable attribute of flexibility to respond in the face of a mobile or variable threat, but on the other it also incurs the logistical problems and costs of managing the moving of a system from one area to another, including the required operational expertise, maintenance and training responsibilities. This implies that under equal conditions, mobile systems are more desirable, but will be more expensive to operate.

Question. Based on history, I am concerned about the future of drug interdiction. Drug interdiction initiatives in the early 1990's focused on blocking the trafficking of drugs through the Caribbean corridor. As a result, drug traffickers moved their activities toward the Southwest border. How flexible are our current efforts?

Answer. Customs has been very successful at adapting to the changes made by smuggling organizations.

In order to meet the rising challenge of policing the Nation's borders against drugs, Customs has developed comprehensive new technologies and has integrated them with conventional inspectional and investigative techniques to support our priority missions. Customs took this approach due to the staggering workload along the Southwest Border. For example, last fiscal year, 3.5 million trucks, 75 million cars, and 254 million people crossed our land border through ports of entry. In contrast, during this time period, Customs had only 1,800 inspectional personnel along the entire 2,000 mile border.

Customs launched Operation Hard Line 24 months ago to permanently harden our Nation's Southwest Border ports of entry against drug smuggling activity. At the time, ports of entry along the U.S.-Mexico border were under siege by narcotics traffickers, known as port runners, who would brazenly speed drug-laden vehicles through border crossings, jeopardizing the safety of border officers and civilians. Operation Hard Line is evidence that the top priority for Customs is to stop drug

smuggling. Port running has decreased over 56 percent. Southwest Border ports of entry are now safer for all Federal Inspection Service officers and civilians.

Drug seizures on the Southwest Border increased substantially in fiscal year 1996; narcotics seizures increased 29 percent by total number of incidents (6,956 seizures) and 24 percent by total weight (545,922 pounds of marijuana, 33,308 pounds of cocaine, and 459 pounds of heroin) when compared to fiscal year 1995 totals. Additionally, the total weight of narcotics seizures in commercial cargo that entered the U.S. via commercial trucks on the U.S.-Mexico border in fiscal year 1996 were up over 153 percent (56 seizures totaling 39,741 pounds) when compared to fiscal year 1995 seizure statistics. This increase in narcotics seizures is due to an increase in the number of intensified inspections and tactical intelligence resulting from Operation Hard Line.

Nearly 165 experienced special agents and intelligence analysts have been reassigned under Operation Hard Line to the Southwest Border to work narcotics cases. Our fiscal year 1997 Budget provides an additional 657 positions and $65 million for Customs Operation Hard Line efforts along the Southwest Border and the Southern Tier of the United States.

Southwest Border port infrastructure has been fortified and Customs Inspectors have been equipped with better tools to perform more intensive narcotics exams. Customs has procured four additional truck x-ray systems for El Paso, Texas (two systems); Pharr, Texas; and Calexico, California. The truck x-ray at Calexico, California, has been completed and has been operational since March of this year. The additional nonintrusive inspection systems for El Paso and Pharr are scheduled to be operational by October 1997. The Customs Service has also paid additional overtime for pre-primary operations; purchased over 1,700 sets of body armor; funded integrity training; bought 126 additional vehicles and purchased radios and other enforcement equipment.

Customs has also received pledges from more than 836 trucking companies on the Southwest Border to better police their trucks and warehouses in order to prevent the exploitation of legitimate carriers and cargo by drug cartels under a program called the Land Border Carrier Initiative Program.

Question. It appears that mobile or portable technologies would give us the ability to refocus our interdiction efforts as needed, instead of revisiting this issue in another couple of years. How flexible will our future interdiction technology and efforts be in addressing drug trafficking along a new border front?

Answer. Since the submission of the President's Budget, Customs is refining its requirements for non-intrusive technologies to achieve a greater mission capability and return on investment by including relocatability (capable of being deployed to another location in days or at most weeks) or mobility (capable of being deployed to another area in a matter of minutes or hours) as an important criterion. This, when augmented by the results from the joint Customs/DOD South Florida multiple systems demonstration scheduled for next year, should provide us with the tactical building blocks with which to design a flexible response to drug trafficking along a new border front.

Question. Can't we purchase more portable systems for the price of one fixed site? Are there cost benefits to mobile technology over fixed sites?

Answer. Mobility in and of itself is not necessarily less expensive. For example, the mobile truck x-ray with transmission will cost about $2.5 million, compared to the fixed truck x-ray cost of about $3.3 million, installed. The fixed system has twice the throughput as the mobile one, because it has two x-ray beams, where the mobile system only has one, and must make two passes for the same image coverage. In addition, there are the costs of moving the mobile x-ray from one site to another, extra training, and maintenance. The answer is a complex one that we are now in the process of addressing, since we have just deployed our first two mobile assets, the mobile truck x-ray and the transportable gamma ray imaging system, and will be obtaining performance and cost data from these operational deployments over the next several months.

Question. What are the broader applications for this new generation of technology? Is it only capable of detecting drugs?

Answer. Most of the non-intrusive inspection technology we are acquiring or currently use detects anomalies, rather than specific contraband types. X-rays, for example, are used to identify patterns, objects or targets that don't belong with what is expected. Thus inbound drugs and other contraband, or outbound explosives, weapons, currency or stolen cars, for that matter, all appear as anomalies to normal manifested goods. The performance and image resolution of the equipment is another matter, and systems designed to detect large anomalies, such as a low power x-ray to detect stolen cars in outbound containers, will have difficulty detecting 50 pounds of drugs in an inbound container. In this case, two separate systems may

be required, each designed for its special application. To use a higher performance system for both applications will generally work, but at a lower cost benefit for those applications requiring less performance. The Buster, gamma-ray imaging system and ultrasonic systems described in previous answers are other examples of anomaly detectors.

Trace detectors, on the other hand, are designed to identify specific drugs, explosives or characteristics of such contraband. Some drug particle and vapor detection systems, i.e., those that are based on ion mobility spectrometry (IMS), can detect either explosives or drugs with a small change in their operation, such as a switch. Customs is purchasing many of these systems for the anti-terrorism program with the intent that for dual-use applications, the explosive detector can be changed to a drug detector by flipping a switch.

AIR INTERDICTION

It is my understanding that the demand for Customs P–3 AEW aircraft has increased dramatically with implementation of the Administration's international Drug Strategy, particularly that which focuses on the source zones. According to Customs this requires better air interdiction methods.

Question. What methods has Customs employed to ensure their air interdiction programs can meet this new challenge?

Answer. Increased demands on the Air Program's assets have prompted creative methodologies and initiatives to accomplish our various missions. The most noteworthy is the application of the "flex force" strategy whereby Customs quickly deploys assets to areas requiring attention. Operation RAPIER is an example of this strategy and consists of periodic, multiple, and flexible deployments (approximately 10 days duration) to respond to high threat areas. Intensified interdiction methods are then employed to disrupt smuggling operations.

"Flex force" operations are intelligence driven. Four basic initiatives are utilized to develop characterizations, or models, to identify smuggling trends in a specific area. These characterizations include: air environment, airfield environment, aviation community and active criminal organizations. Once the intelligence has been collected and analyzed, resources are dispatched to address the threat.

In addition to "flex force" operations, adaptable scheduling of assets, along with an increased use of "call out" personnel, is being utilized for "day-to-day" operations. This allows support to be prioritized for maximum effectiveness.

Question. Do the long-range air interdiction strategies differ from short-range border interdiction strategies?

Answer. The long-range objectives of all interdiction efforts, to include Customs air interdiction efforts at and beyond U.S. borders, are to eventually deny drug traffickers the option of using a specific smuggling route or method for transporting their cargo. As has been demonstrated by Customs successes against the domestic air smuggler and port runners, this long-term objective is typically accomplished by implementing short-range strategies which involve saturating a specific drug trafficking route or method with forces and technology capable of identifying and apprehending suspects engaged in drug smuggling. In the near term, these efforts typically result in a dramatic increase in seizures. Eventually, however, seizures typically taper off as the trafficker seeks out and exploits other, less risky, means of transportation. Once this point is reached, the long-term strategy becomes one of leaving behind an interdiction presence capable of preserving this success, and then, once again, beginning the process of developing and implementing a short-term strategy to fight the trafficker in the newly exploited smuggling routes and methods.

Question. Are the land and marine interdiction elements sufficiently placed and effectively staffed to respond to suspicious targets identified by the air interdiction effort?

Answer. Although Customs aircraft support air interdiction efforts throughout the hemisphere, Customs, through the Domestic Air Interdiction Coordination Center (DAICC), coordinates only those efforts aimed at interdicting drug trafficking aircraft operating in the Arrival Zone (the continental U.S., Puerto Rico and their surrounding areas). The Department of Defense Joint Interagency Task Forces (JIATFs South, East, and West) are responsible for coordinating interdiction activities against targets operating in the Source and Transit Zones and would be the appropriate entities to speak to interdiction response capabilities in those regions.

As far as the adequacy of interdiction elements to respond to targets identified by the DAICC, recently Customs has experienced difficulty in responding to targets referred by the DAICC for action. This is due primarily to the commitment of aviation resources to support international efforts and availability of aircrew staffing levels. Although there is no conclusive evidence which indicates that cross-U.S. bor-

der private air smuggling activity has returned to the widespread levels of the past, there have been a few recent incidents which suggest that there have been some attempts to exploit weaknesses in our coverage.

The Air Program is in the process of trying to assess the extent to which this is occurring and determine the appropriate adjustment in resources and strategies.

The land and marine interdiction elements are strategically placed to respond to targets identified by air assets. High impact areas such as South Florida, the Gulf Coast and San Diego are being challenged to meet the full threat.

Question. What percentage of identified sea, air and land targets are we able to effectively respond to and physically challenge with the above enforcement elements (i.e., special operations search, seizure and arrest teams)?

Answer. Fiscal year 1997 through March, the DAICC referred 233 suspicious air, land, and sea targets to Customs Aviation Branches for action. Customs aircraft successfully intercepted 64 percent of these targets, 66 percent of which were successfully brought to an enforcement stop on the ground.

Among the principal reasons for not successfully launching on, intercepting and/or bringing to ground a suspect aircraft target are: the suspect aircraft target was the subject of an investigation and there were specific instructions not to intercept or stop the suspect; the suspect aircraft remained in or returned to foreign air space prior to being intercepted or stopped; the suspect target was lost from radar prior to being intercepted or stopped; weather either precluded the launch of an interceptor or bust aircraft or forced the interceptor or bust aircraft to return to base; the suspect aircraft activity was identified only by means of visual sighting and the information was not timely or detailed enough to either launch an interceptor or for a launched interceptor to locate the suspect; there was no interceptor or bust aircraft in the area available to launch.

The Marine program is responding to approximately 75 percent of the reported targets. The reasons for non-intercept are similar to those cited for the Air program above.

Question. What assistance have we received or effort has been put forth from the source countries to suppress smuggling of contraband by air and sea?

Answer. Within South America, a U.S.-sponsored interdiction effort is the cornerstone of the National Drug Control Strategy to attack the narcotics problem at its source. A sustained Customs aviation presence, coupled with host nation support, continues to disrupt air and maritime transportation of cocaine base from Bolivia and Peru to Colombia. The level of support is comprehensive and includes the utilization of forward operating bases, logistical backing and intelligence sharing. In addition, extensive coordination is provided by the host nation riders to secure "hot pursuit" overflight authority and prosecute successful interdiction. These riders are an integral part of the interdiction aircrew and instrumental in the success of these missions.

Combined operations, such as the ones currently undertaken in South America, serve as force multipliers in restricting the flow of narcotics. According to the 1997 National Drug Control Strategy:

> By the end of 1996, Peru and Colombia seized or destroyed dozens of drug trafficker aircraft, resulting in a two thirds reduction in the number of detected trafficker flights over the Andean ridge region compared with the number of flights detected before the denial program was launched in early 1996.

These operations have become so successful that by the end of 1996 coca cultivation exceeded the transportation capability of the traffickers. The direct result was a 50 percent reduction in the price of coca in Peru.[3]

The challenge is to further exploit our successes by blocking traffickers from developing alternative routes. This can only be accomplished through combined operations as noted above.

Per the Memorandum of Understanding (MOU) guidelines with the Drug Enforcement Administration, the Marine program does not participate with source countries in drug related matters.

Question. What other U.S. agencies are involved in the air interdiction efforts?

Answer. The United States Customs Service, as mandated by law, is responsible for protecting our land and sea borders from contraband smugglers. Several other federal and state agencies provide valuable support including the U.S. Coast Guard, which provides several aircraft, and the Department of Defense, which provides a detection and monitoring capability in the source and transit zones and radar data

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[3] Office of National Drug Control Policy, *The National Drug Control Strategy, 1997,* February 1997, p. 54.

from the tethered aerostat network strategically positioned along the southern tier of the U.S.

Question. Besides advanced intelligence, is the air interdiction program the next most viable means of identifying and interdicting air and sea smuggling?

Answer. Accurate, timely, advanced intelligence information is without question the ideal basis for a successful interdiction effort. In the absence of intelligence the Customs air/marine interdiction programs are uniquely equipped to combat the contraband smuggler. The Customs aviation program is comprised of various airborne assets strategically positioned to intercept those smugglers. The Domestic Air Interdiction Coordination Center (DAICC) and its subordinate facility located in Puerto Rico, the Drug Interdiction Operations Center (DIOC), are responsible for protecting the arrival zones of the U.S. and Puerto Rico. The DAICC and DIOC are supported by specially equipped aircraft and law enforcement crews positioned along the southern tier of the U.S., New York state, and Puerto Rico. Vessels manned by Customs Officers are also strategically placed along the U.S. borders and Puerto Rico. Additionally, Customs has long-range, sensor-equipped P–3 aircraft that protect our domestic borders and are forward deployed providing detection and monitoring platforms to participating host nations in South and Central America. The P–3 platforms are complemented by a network of sensor-equipped tethered aerostats placed along the southern tier of the U.S.

The DAICC, being the only facility capable of doing so, has been designated the single facility responsible for sorting aircraft on an international basis to determine legal status.

Question. Are the Custom's Black Hawk helicopters properly equipped with the necessary law enforcement equipment and staffed with special operations personnel to effectively confront these smugglers, once they touch down on land?

Answer. All of the Customs Black Hawk helicopters are equipped with a law enforcement radio, a night sun flood light for night operations, and all are capable of night vision goggle operations.

All Customs Pilots and Air Interdiction Officers are highly trained for the "special operations" they perform. Each receives 4 months of initial law enforcement training at the Federal Law Enforcement Training Center at Glynco, Georgia. Soon after returning to their post of duty, each new hire attends our 2-week in-house training known as Standard Tactical Aviation Training. Refresher training is provided periodically throughout their careers.

Question. How many P–3 AEW aircraft are needed to effectively defend our southern border? What is the life expectancy of the current fleet of P–3 AEW aircraft?

Answer. To date, the Customs Service has effectively defended the southern border with 4 P–3 AEWs, operated as aerostat gap fillers and in smuggling choke points along the smuggling routes to the U.S. border. Customs is currently increasing its fleet to 6 P–3 AEWs to extend its operations to other smuggling avenues in the western hemisphere while maintaining sufficient resources to defend the border. The success of this approach relies heavily on prior intelligence and empirical smuggling trends to position the P–3 AEW in an appropriate orbit location. Barring this type of approach, the theoretical maximum number of P–3 AEW aircraft required to cover the Southwest Border from Brownsville to San Diego, seven days a week, 24 hours a day (7×24) on the U.S. side of the border is 30; assuming the aerostat system is operational at its current level. If the Government of Mexico would allow Customs to operate the P–3 AEW and its sensors in Mexican airspace, this would reduce the theoretical aircraft requirement to 23 due to advantages in the geographical layout. To extend this same coverage from Texas to Florida (across the Gulf), would require an additional 23 aircraft. Please see the calculations below for details.

Coverage (North of Border) with Aerostats (7×24 Hour)

The Aerostats have 6 orbits along the Southwest Border. Half of the Aerostats are down every day for an average of 8 hours. To fill those gaps and address other known deficiencies between the Aerostats the following applies:

1. Each airframe in the inventory is capable of 95 hours of flight time per month
2. 3 orbits × 24 hours = 72 hours/day (gap coverage)
3. 3 orbits × 8 hours = 24 hours/day (aerostat down time coverage)
4. 72 + 24 = 96 hours/day × 30 days = 2,880 hours/month
5. 2,880/95 = 30 airframes required

Coverage Without Aerostats for Eastern U.S. (7×24 Hours)

To cover the eastern half of the United States Southern Border would require three orbits. Aerostats are not a factor in determining coverage. The following applies:

1. Each airframe in the inventory is capable of 95 hours of flight time per month.
2. 3 orbits × 24 hours = 72 hours/day of coverage
3. 72 hours/day × 30 days = 2,160 hours/month
4. 2,160/95 = 23 airframes required

The P–3 AEW, as configured for the Customs Service, is primarily designed for over water/jungle detection. Employment of the standard configured "Dome" over the Southwest Border (on the U.S. side) degrades the level of coverage. Supplemental processors and upgraded radars would improve the coverage south of the border for a single threat axis (i.e., south to north targets).

The aircraft has no finite service life limitations as long as recommended inspections and maintenance are performed. There comes a time, however, when repairs required to keep an aircraft airworthy are no longer economically feasible. Based on the manufacturer's Service Life Extension Program studies and Customs P–3 mission profiles, it is estimated that Customs can expect a service life greater than 30,000 hours for each airframe. Airframe hours for the four P–3As range from 19,632 to 20,274. Airframe hours for the four P–3 AEWs range from 15,506 to 22,183. Based on current utilization of approximately 500 hours per year for each P–3A and 1,000 hours per year for each P–3 AEW, Customs expects another 10 years of service from its current fleet of P–3s.

MARINE INTERDICTION

The U.S. Army is transferring 8 King Air C–12's from the U.S. Army for use in the Customs marine interdiction program. It is my understanding that modification of these aircraft into the maritime surveillance configuration will cost $8.5 million and the suggested funding for the reconfiguration is through the Operation GATEWAY funds and unobligated carryover funds.

Question. What type of reconfiguration is necessary? What would the cost of these modifications be if the aircraft were ordered with this configuration?

Answer. These aircraft will be modified to incorporate a sensor suite that includes a sea search radar, forward looking infrared, and law enforcement radios for use in a marine surveillance and tracking configuration to replace our aging, out of production Australian-made Nomad Searchmaster aircraft.

The cost for eight new aircraft with the marine surveillance modifications would be as follows:

Modification elements	Unit cost	Units	Total cost
New King-Air aircraft	$3,880,000	8	$31,040,000
Radar	1,024,675	8	8,197,400
FLIR	208,487	8	2,467,896
Law enforcement radios	274,235	8	2,193,880
Modification and integration	1,065,000	8	8,520,000
Total	6,552,397	.....	52,419,176

Question. It is my understanding that each C–12 maritime aircraft has a resale value of between $825,000 to $875,000. Does it make sense to make modifications that cost more than the value of the aircraft?

Answer. The manufacturer has no finite life limitation on the aircraft as long as recommended inspections and maintenance are performed. This aircraft does have a mandatory wing spar inspection due at 30,000 hours.

This group of C–12's has an average total flight time to date of 11,373 hours per aircraft which means we should be able operate them for approximately 16–20 additional years. Sensor modifications are always expensive. We therefore opted to invest $8.5 million to modify the Army C–12s instead of buying brand new aircraft in this configuration at a cost of just over $52.4 million.

Question. What currently is in Customs marine interdiction fleet? Are any of these vessels on loan to or from other local, state or federal agencies?

Answer. Customs currently has 167 operational vessels. Customs operates 84 and the remaining 83 vessels are loaned to state and local agencies who crew the vessels and pay for all operational expenses (fuel, maintenance, etc.).

Question. In the past it was suggested that $20 million in carryover balances be used to fund portions of the air and marine interdiction programs. What is the current carryover balance?

Answer. The unobligated Operations and Maintenance carryover balance (as of April 30, 1997) for the Air Interdiction program was approximately $6 million.

These funds will be used to cover unfunded requirements including: increased aircraft maintenance contract labor rates; increased contract labor costs to support expanded missions; aircraft system upgrades such as radar and radio enhancements for compatibility and conformity to current standards; and additional pilot training costs associated with additional aircraft coming into the Aviation fleet.

The marine program has a current carryover balance of approximately $393,000. This balance is being used to pay for operational and maintenance expenses incurred by the marine program.

Question. The Hard Line initiative appears to be driving more of the drug smuggling off shore, utilizing small watercraft to beach loads above the U.S. border. Does Customs have enough interdiction craft and marine law enforcement personnel to meet this challenge?

Answer. Customs is assessing resource needs and possible re-alignments to meet the increasing marine smuggling events and properly address this emerging problem adequately.

TARIFF CLASSIFICATION

Background: A major employer in my State has been waiting for a decision from the Customs Service on the appropriate tariff classification of sanitary ware imported from Mexico (sinks, washbasins, toilets, and similar fixtures). I understand their case has been on hold for over a year and a half due to a 516 petition filed by another domestic manufacturer of these products. The Customs Service published a notice for comment over a year ago, and public comments were received last May. However, nearly one year later, there is still no decision.

Since last fall, my constituent has been informed upon inquiry that the draft decision is in the clearance process at Customs or Treasury.

Question. Would you please explain the reasons behind the delays in this case and inform me as to when there may be a decision on this matter?

Answer. On July 25, 1996, the Customs Laboratory completed their review and provided their scientific understanding of the comments. Based on that report and other offices' review, Customs came to the conclusion that the actual petitioner's requests for replacement of the porcelain definition was not possible as Customs must use the tariff provided definitions. However, both domestic manufacturers and importers were concerned with knowing what methods were being used to determine whether sanitary ware met the porcelain or stoneware definition. Therefore, as a part of our obligation to inform the public as to Customs matters, any response to the petition and protest had to include a clear, concise explanation of all of the methods used to determine whether a particular article met the requirements of each of the subject definitions. Such an explanation of each requirement and the corresponding testing method has been prepared. This document is in review and upon final approval will be issued in the immediate future.

SUBCOMMITTEE RECESS

Senator SHELBY. Thank you for appearing here today and I hope we will never have an incident like this again.

Ms. LAU. Thank you.

Senator SHELBY. Thank you. The subcommittee is recessed.

[Whereupon, at 12:19 p.m., Thursday, April 17, the subcommittee was recessed, to reconvene at 9:30 a.m., Wednesday, May 14.]

TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS FOR FISCAL YEAR 1998

WEDNESDAY, MAY 14, 1997

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

The subcommittee met at 9:30 a.m., in room SD–192, Dirksen Senate Office Building, Hon. Ben Nighthorse Campbell (chairman) presiding.

Present: Senators Campbell, Shelby, Faircloth, Kohl, and Mikulski.

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF NATIONAL DRUG CONTROL POLICY

STATEMENT OF GEN. BARRY R. McCAFFREY, DIRECTOR

OPENING REMARKS

Senator CAMPBELL. This hearing of the Treasury and General Government Subcommittee will be in order.

I would like to welcome General McCaffrey. As I mentioned to you General, we have a disjointed hearing this morning. We are told we are going to have three back-to-back votes starting around 9:45 or 9:50. We will try to get through as much as we can when Senator Kohl arrives, and then we will probably have to recess for 30 or 45 minutes. I hope that does not inconvenience you too much, but I am sure you are aware of the process that we face here.

This morning we are going to review the Office of National Drug Control Policy's [ONDCP] fiscal year 1998 budget request and, in that process, we will review the progress this office has made in curtailing the use of illegal drugs in this country. I believe, as my colleagues will also believe, in this tight budget time we have to demand the most out of each Federal dollar we spend and the effort to stem the illegal drug use is not exempt from that scrutiny.

Last year General, you testified before us that in 1 year you would be able to demonstrate to this committee the successes with the funding Congress provided in fiscal year 1997. We certainly look forward to hearing about those successes and certainly wish you well and want to work with you in furthering those successes.

The Office of National Drug Control Policy plays a leading role in carrying out the country's antidrug efforts. All would agree that we must do what we can to combat the use of illegal drugs in this

country. Nevertheless, we are also concerned about some of the particular approaches the administration and your office is taking.

For example, I am somewhat concerned about our relationship with Mexico, where much of the illegal drug trade now seems to come from. I understand that Mexico and other Latin American countries have unique and serious challenges in their system that strain our efforts to help us combat drugs. I am also not convinced that the somewhat one-sided recertification of Mexico is necessarily a productive response.

Second, I am concerned about the 5-year, $175 million per year request the administration has proposed for a new national media campaign. That is a great deal of money to be spent on radio and TV ads. Although I am not an expert in the field, it would seem to me that for much less a targeted approach we could probably get a lot more done for less expenditure of taxpayer's money. I am interested in hearing the details of this proposal and your defense of it.

Finally, let me say it is not only the drugs themselves that are hurting our communities, but also the crime and violence that are so closely linked with the illegal drug use. In the battle against this illegal drug use we not only have to fight against the use of the drugs but also against the despair and the destruction that is inherent. As long as Americans unfortunately, keep using these killer substances, the drug war is going to be going on for a long time.

PREPARED STATEMENT

With that, I want to submit my full statement for the record. I would ask Senator Kohl for his statement and, Senator Kohl, I mentioned already that we have some votes and we would probably have to take a recess at the conclusion of the General's statement.

[The statement follows:]

PREPARED STATEMENT OF SENATOR CAMPBELL

Good morning. I'd like to open this hearing of the Treasury and General Government Appropriations Subcommittee by welcoming General Barry McCaffrey, director of the Office of National Drug Control Policy. This is a rather disjointed hearing. I hope to begin about 9:45. We will try to get through opening statements and then recess until after the vote.

We are here today to critically review the ONDCP's fiscal year 1998 budget request. In the process, we will review the progress the ONDCP Office has made in curtailing the use of illegal drugs in this country. I believe, and I think my colleagues will agree that in this tight budget time we must demand the most out of each federal dollar we spend, and the effort to stem illegal drug use is not exempt from this scrutiny.

Last year, General McCaffrey testified before us that in one year he would be able to demonstrate to this committee the successes with the funding Congress provided in fiscal year 1997. I look forward to hearing about the successes ONDCP has seen over the last year, as well as your goals for the coming years, and any special challenges you will face.

The Office of National Drug Control Policy plays a leading role in carrying out the country's anti-drug efforts. All would agree that we must do what we can to combat the use of illegal drugs in this country. Nevertheless, I am concerned about some of the particular approaches the Administration and your Office are taking. For example, I am worried about our relationship with Mexico, from where much of the illegal drug trade now comes.

I understand Mexico and other Latin American countries have unique and serious challenges in their system that strain their efforts to help us combat drugs. But I am not convinced that a somewhat one-sided re-certification of Mexico is necessarily a productive response.

Second, I am concerned about the 5 year, $175 million per year the Administration has proposed for a new "national media campaign." This is a great deal of money to be spent on TV and radio ads. For less of this sum—through a targeted approach, we could get more done for less money. Nevertheless, I am interested to hear the details of this proposal, and your defense of it.

Finally, let me say, it is not only the drugs themselves that are hurting our communities, but it is also the crime and violence that are so closely linked with illegal drug use. In the battle against illegal drugs, we not only have to fight against the use of such drugs, but also against the despair and destruction that is inherent where drugs are involved. As long as Americans keep using these killer substances the drug war will go on.

The difference individuals can make is amazing. The message the American public needs to hear from you is that we are getting better at fighting drugs, and they need to be able to see progress in their communities and have tools to join the fight, too.

Again, thank you for coming, General McCaffrey, I look forward to your testimony. Senator Kohl, would you like to make an opening statement?

STATEMENT OF SENATOR KOHL

Senator KOHL. I thank you, Chairman Campbell, and I am happy to be here today. Although this is my first year as ranking member on this subcommittee, I have been interested in working on drug issues for many years.

Director McCaffrey, I want to welcome you to the subcommittee hearing. I am glad we have another opportunity today to discuss our concerns about the devastating effects illegal drug use is having on the country. Since 1987, the Federal Government has invested an estimated $116 billion on drug control policies. In fiscal year 1998 the President's budget calls for an additional $15.9 billion, which would bring the total investment to over $132 billion.

Aside from the direct costs of illegal drugs, the cost to our society from the violence associated with drugs and the increase in drug use by youths, our public's confidence has been shaken by the Government's ability to control the drug problems. I think we have reached a point where we need to be honest and say what works and what does not work.

It seems a number of prevention strategies, such as the GREAT Program and the High Intensity Drug Trafficking Program are showing promise. If you can prevent drug use before it begins, the savings to society would be staggering. And some treatment programs are succeeding in moving people from drug use to a life that works and a life that is productive.

At that same time, I do not believe that we can afford to fund anything and everything in the name of prevention and treatment just to see if it will work. We need to continue to analyze these programs and make some tough choices.

General, let us decide the best methods for applying scarce resources. Let us get more aggressive and creative in our attacks on drugs and let us make sure that every effort is made to keep our children drug free.

I have a number of questions about our national drug control strategy that I will ask after you deliver your opening statement. Those we do not have time to get to I will submit for the record. Again, I am pleased to be here with you, and with you, Mr. Chairman. We are prepared to proceed.

Senator CAMPBELL. With that, Director McCaffrey, you can proceed.

STATEMENT OF GEN. BARRY R. MC CAFFREY

General MCCAFFREY. Mr. Chairman, thank you for the opportunity to come over here this morning to lay out some of our plans and to try and respond to your own questions and interests.

With your permission, I will not only address the ONDCP budget directly, the one that your committee monitors, but also try and put in context the larger national drug effort we are making, which as you know, is some $15.9 billion and is in nine separate appropriations bills, and also affects the actions of almost 50 Government agencies in total. I very much appreciate the leadership and the interest that both you and Senator Kohl have shown on this issue.

INTRODUCTIONS

There are several important people that work in our effort against drugs that are here with us today and I would be remiss to not note their presence and to thank them for their support and wisdom. Robbie Callaway is our senior vice president of the Boys and Girls Clubs of America.

As you may know, it reaches almost 3 million young Americans across the country, primary focused in disadvantaged youths. I have used Boys and Girls Clubs as an example, in some ways, as the best of what we do in drug prevention. Direct application of adult mentoring and care and standards and opportunity, outside of the school system, where arguably our children are safest in our society. So his counsel and support has been very important to me throughout the year.

Bill Alden, deputy director of DARE, is also here. As you know, the DARE program of some 25,000 uniformed officers across the country reaches some 33 million children each year, both here and in the international community. Last week, when I was in Costa Rica, one of the last things I did was to go to one of their DARE programs, a couple of hundred kids, 70,000 children in Costa Rica alone.

Obviously, the DARE program is not enough, but it is focused on fifth and sixth grade and trying to educate young people to have some appreciation of the menace of drugs and it has been really a tremendous contribution.

Linda Wolf-Jones, executive director of the Therapeutic Communities of America is also here. Her leadership has been really essential in making me more aware of the effectiveness of more than 400 treatment programs, both in the United States and in Canada, and we very much appreciated her work.

Then finally, one of the biggest things that I would argue that we are doing in America is talking to our public through the forms of communication that modern America listens to, which is television, film, radio, print media. We have here in the room with us today Mike Townsend from Partnership for Drug-Free America. He and Jim Burke and about 30 professionals have been doing over $2.5 billion during their last several years in pro bono advertising work aimed at getting the message to America that drugs do not work, that drugs will kill you. They will be very heavily involved, as I will talk a little bit later on, in the $175 million a year public

media campaign that you have already mentioned in your opening statement.

Sir, with your permission, let me run through first a very short video tape which is an example of the work that Partnership for Drug-Free America has done and the kinds of thing we are talking about putting out in front of the American people. Then I will summarize our appropriations request for your consideration in a series of charts. This short video, I think, is illustrative of the kind of communications requirement we are going to be pushing.

[Video tape played.]

General MCCAFFREY. Pretty powerful messages. Of course, as we will explain later, part of the problem is that we have had a 30-percent decline in the availability rate of pro bono advertising in the last few years. The economics of this industry are changing and although we are getting out in volume, the quality of our PSA's has gone down.

Senator, we have put a considerable amount of work into the written statement I have provided to the committee. It tries to pull together our thinking on the appropriations process and how we have linked it to the strategy in our plans for the future. In addition, I have provided for the committee copies of the charts that put in graphic form some of the data that has helped form our own judgments.

Then there are three additional documents, Mr. Chairman, I would like to offer for your consideration. One of them is Dr. John Carnevale's, who is one of my senior colleagues working on the drug control budget analysis for the 5-year process, the 1999 through 2003 drug budget that we have been putting enormous amounts of energy into for the last 6 or more months.

We have also put together, that really goes in tandem with that, something that we think may end up changing in a broad way the way our Government works. Frank Raines, the OMB Director, and I and others are looking at performance measurement systems to ensure the drug strategy's success. We are going to try and link the strategy, its five goals, its 32 objectives, with very carefully crafted targets and outcomes that have measurements to try and end up with a system that is not process oriented but output oriented. There are some 26 working groups in the Government. I will try and have this to you in time for it to guide your thinking on the 1998 budget. So that is on the table.

And then finally, Mr. Chairman, we are working, as you may well know, on the reauthorization bill for the Office of National Drug Control Policy. It has a sunset provision for September. This is a copy of the proposed ONDCP reorganization. No real increase in manpower, but we have tried to rationally look at how ONDCP is organized internally and how we can best support the purpose of the 1988 law.

With your permission, Mr. Chairman, I will offer these documents for the record and for your consideration.

Senator CAMPBELL. Without objection, all of your supporting material will be included in the record.

General MCCAFFREY. Mr. Chairman, I will quickly run through these slides, really to give you the broad outline of our position.

ONDCP'S BUDGET

The first slide is important. In some manner, we relate all of our activities, and particularly the appropriations process, back to the national strategy. In the last year we have managed to get the executive branch, in the nine major drug appropriations bills, to explain what it is trying to do in terms of the strategy rather than in terms of program elements.

Although I would argue it is imperfect because, as you know, most of these appropriation moneys are scored by the parent agency as to whether or how much they relate to a drug issue, we think we have made considerable progress in trying to explain what we are doing in terms of a central conceptual architecture.

The next slide just gives you a quick capstone of the ONDCP programs themselves, some $350 million, where they are going. One percent of the counterdrug strategy will be used for the national antidrug media campaign, some $175 million a year, and I will talk about that in greater detail. The HIDTA's, which as Senator Kohl mentioned are now up to 15 in number, are showing considerable promise we would argue. Salaries and expenses, the rather modest funding for the Counterdrug Technology Assessment Center, which is now trying to rationalize its mandate in support of the strategy. And then finally, a rather small drug policy research budget.

To review the challenge, in sum, adult drug use in America is stable or declining, although the dynamic nature of the threat does not necessarily tell us that is the way it will be in the future. We are seeing heroin in enormously high purity and low expense show up, new populations are becoming exposed to heroin, methamphetamines, Rohypenol, PCP. But by and large, drug use in the American population is down by 50 percent.

However, among our children, drug use has doubled. It is getting worse. It is half as bad now as it was in the 1970's. It started to turn around. The University of Michigan, where this data comes from, probably in 1989 to 1990, we started to see a shift on the disapproval rate for drug use, the risk perception of drug use, and then in 1992 we clearly see it starting up. And it has continued to get worse each year.

Generational replacement, generational forgetting. That is the crux of the problem right there.

Senator MIKULSKI. Mr. Chairman, excuse me. We need to leave for a vote, Mr. Chairman.

Senator CAMPBELL. We have had the first call for it.

Senator MIKULSKI. I will not be able to come back and I just wanted to tell General McCaffrey he has my utmost support, my utmost admiration. Thank you for fighting drugs and thank you for HIDTA in Maryland.

And you are an excellent chairman on this topic, Mr. Chairman. Your work in antigang activity is nationally known and nationally respected. So I just wanted to say that.

General MCCAFFREY. Thank you, Senator.

AD CAMPAIGN

The ad campaign, just to summarize it quickly, our notion is that we would essentially devote 1 percent of the national drug control

budget to try and target 68 million children, 90 percent of that population four times a week, with primetime approaches. We are persuaded by Columbia University's evidence in particular that gateway behavior to drug addition suggests that if you can keep children from tobacco use, binge drinking, and marijuana—which are primarily the three gateway behaviors—through their 21st birthday, statistically the chances of them joining the ranks of the 3.6 million addicted Americans are remote.

That is at the heart and soul of what we are trying to do. We have leaned very heavily on the thinking, the expertise, and the historical memory of the Partnership for Drug-Free America.

In addition, the Advertising Council of America has a tremendous depth of expertise in this area.

Senator CAMPBELL. Director McCaffrey, we have already had the second call, so we are going to recess at this point. But if you could just leave that last chart up there, I would like to look at that a little bit more when I come back.

With that, we will be in a recess for about 45 minutes. Thank you.

[A brief recess was taken.]

Senator CAMPBELL. The subcommittee will be back in order. I apologize for the inconvenience of everyone and certainly General McCaffrey, but that is part of the deal. Had you finished your statement?

General MCCAFFREY. Mr. Chairman, with your permission, I will just make sure you see the remainder of the outline.

Senator CAMPBELL. Please go ahead. I understand several of our colleagues are on the way.

General MCCAFFREY. The problem of cocaine makes a good example of the dynamic nature of the threat we are facing. We have 12 million Americans regularly using drugs. It is a very serious situation. The consequences are staggering, 14,000 dead or more, $67 billion in losses.

And yet the principal drug threat America currently faces is arguably cocaine. And as you look at cocaine over the last 15 years, it is changing. It is plummeting. It is going down. This chart can be deceptive in that we are looking at three different arrays of data, new initiates to cocaine use, casual users, and chronic users. So they are not additive. These are separate mathematical functions.

But the bottom line is new initiates to cocaine have gone down enormously in the last 8 years. Casual users have gone from about 6 million down to 1.4 million. What has remained the same is chronic users of cocaine. As you know, with this drug in particular, users develop tolerance and dependency, and we argue that we are actually still consuming almost 240 metric tons of cocaine a year.

So cocaine use, as a gross problem affecting America, has gone way down and I would argue, as we look out toward the future, given the devastating consequences of cocaine addiction, this population on the far right will, with its tremendous mortality rate, continue to decrease.

What that does not imply, cocaine use may be dropping in terms of numbers, but the impact of a smaller number of increasingly sick, desperate, and criminal people is significant. You notice we do

have marijuana listed as a reason for health care emergency room mentions. In some cases, this is in conjunction with other drugs like alcohol or because of a traffic accident or whatever. But we do have a significant number of people coming into our emergency room system because of drug abuse and addiction.

THE PRISON SYSTEM

One of the biggest social problems facing America, is 1.6 million Americans behind bars. The data inside these charts are deceptive. I do not know what the real answer is. What we suggest is two-thirds of the Federal prisoners, which is up 160 percent—now almost 100,000 Americans in the Federal prison system—are there for drug related reasons.

When it comes to the State system, about 900,000 Americans. We suggest that 22 percent of them are there for a drug-related reason. Experienced law enforcement officers argue the number is closer to being one-half. One million drug arrests a year, a significant amount of them driven by addicted behavior, and the criminality that comes from that addition.

That process costs us $17 billion and has put us in the unenviable position of having the highest per capita incarceration rate of any civilized nation on the face of the Earth. We now have bypassed South Africa and Russia.

We have to do something about it. The solution is not necessarily to direct that less people be in prison, but it is certainly to understand that the investment in drug prevention can lower that number, and that a reasonably small number of Americans—the number I use is 2.7 million—are chronically addicted, that subpopulation that consumes 80 percent of the drugs in America. And that two-thirds of them in a given year are involved in the criminal justice system.

What we now have, and this number is illustrative only, is 7 percent of the prison drug treatment capacity that we require. And so what my education from the law enforcement community of America and from physicians and from judges is that we have to get at this problem with a combination of drug treatment and drug courts and programs such as breaking the cycle out of the Department of Justice in which we mandate treatment along with incarceration and mandate drug testing. Otherwise, we cannot get out of this loop.

If you look at those numbers, 1.6 million, the data suggests that it will go up 25 percent more between now and shortly after the turn of the century. Mr. Chairman, some of us argue we have a failed social policy on incarceration.

There is also a racial subcomponent to this that is troubling, because an undue percentage of that population are minority Americans. I do not think, as I have studied the history of it, I do not suggest nor do I believe that there was a racist impulse to this, but we have to be concerned about the lack of trust of large numbers of Americans in a system that has an 11 percent African-American population, a 33 percent drug rate arrest, and a 48 percentage of the population in prison. Something is wrong. We have to look at this and determine what a rational new way of thinking through it is.

Finally, Mr. Chairman, this chart could lend itself to mischief, and let me suggest my own conclusions from it. What you are looking at is for the easiest drug we face—and I only say easy because it does the most damage to us but we know where it is grown, how it is smuggled to the United States, who uses it. We know a lot about the menace of cocaine.

We know that essentially 800-plus metric tons of cocaine are produced each year. With the exception of dramatic success in Peru in the last year, a minus 18 percent production rate, we have not really affected cocaine production through the entire period of 1990 through 1995 covered by this report.

Each year we get about one-third of it and take it away from international criminals. Each year, of that 300-some-odd metric tons we seize in the international community, about 100 metric tons is seized by U.S. law enforcement. Now I would suggest that taking away one-third of the available cocaine does us enormous good in American society. It means less of it in our school system, or work places, our sports teams, our society. It reduces the number of new initiates. What it cannot do is get at the price-availability-purity ratios of cocaine for the addicted Americans.

So I would just suggest to you, when we look at interdiction, we can do a lot better and we have a lot of initiatives in this area. But over time it has been reasonably static from 1990 on.

Mr. Chairman at this point I will, if I may, stop the prepared remarks and respond to your questions and interests.

PREPARED STATEMENT

Senator CAMPBELL. Thank you, General McCaffrey. We have your complete statement, and it will be made part of the record.

[The statement follows:]

PREPARED STATEMENT OF GEN. BARRY R. MCCAFFREY

Good morning, Chairman Ben Nighthorse Campbell, Senator Herb Kohl, and other distinguished Members of this Senate Appropriations Subcommittee. It is an honor to be here today to discuss the fiscal year 1998 counterdrug budget submitted by the President for congressional consideration and to provide an overview of the 1997 National Drug Control Strategy.

The President instructed me upon my appointment as Director of ONDCP to help create a cooperative bipartisan effort among Congress and the federal, state and local governments and to mobilize public and private support for reducing drug abuse and its consequences in America. My commitment to the Senate when you considered my appointment in February of last year was to forge a coherent counterdrug strategy that would reduce illegal drug use and protect our youth and society in general from the terrible damage caused by drug abuse and drug trafficking. We believe that the 1997 National Drug Control Strategy, which was submitted to Congress in March, and the supporting 16 billion dollar fiscal year 1998 drug control budget provide both a necessary long-term framework and the required resources for accomplishing our common purpose of reducing drug abuse and its consequences in America.

Before reviewing ONDCP's fiscal year 1998 agency budget, let me establish a framework by discussing the entire fiscal year 1998 counterdrug budget (which is contained in nine separate appropriations bills), and the 1997 Strategy. First, allow me to recognize the members of the Senate Appropriations Committee for your commitment to the drug issue. In particular, let me acknowledge the leadership of former Chairman Richard Shelby and Senator Barbara Mikulski. We know that the bipartisan support the Subcommittee provided to appropriate ONDCP's fiscal year 1997 budget was critical to our successes. ONDCP has also appreciated your counsel and support in the development of the 1997 National Drug Control Strategy. We look forward to working with the Committee as a whole in the future. Your contin-

ued support is essential if we are to achieve our objective: preventing 68 million Americans under the age of 18 from becoming a new generation of drug users.

I. THE DRUG CHALLENGE WE FACE

Divergent conclusions can be reached about the nature of America's current drug problem and appropriate responses to it. Some maintain that the source of America's drug problem is the continuing availability of illegal drugs. Reduce availability, they suggest, and the magnitude of the drug problem will diminish. Others consider the record number of Americans imprisoned on drug-related charges and the record-high federal counterdrug budgets and see an unwinnable war on drugs. The problem, they argue, is flawed drug policy, not drugs themselves. Reduce the harm caused by draconian drug policy, they say, and we will have a less-pronounced drug problem. Still others consider the dramatic 50 percent drop in the number of illegal drug users over the past two decades and the 75 percent drop in casual cocaine use and conclude that the national anti-drug effort is essentially sound. Do more of what we know works, they suggest, and the drug problem can be reduced further.

ONDCP sees the nation's drug problem in a different light. Our view is that a decade of progress in the effort to reduce the demand for illegal drugs is threatened by resurgent drug use by our children. We must continue our efforts to reduce drug-related crime and violence, the health and social costs of illegal drug use, and the availability of illegal drugs. However, the centerpiece of our national anti-drug effort must be to prevent the use of illegal drugs, alcohol, and tobacco by our children. Our children are vulnerable to these substances. Unlike mature adults, they are more prone to take ill-considered risks. They may lack the backdrop of experience which would cause them to conclude that it makes little sense to use illegal drugs. Their developing bodies and emotions are even more vulnerable to these substances than are their adult counterparts.' We are now learning that exposure to addictive substances during formative years can cause a permanent predisposition to dependency. We must change the attitudes that are causing our children increasingly to use illegal drugs, tobacco products, and alcohol. We risk a catastrophic increase in the number of chronic drug users who will do enormous damage to themselves, their families, and our society in the future.

The 1997 National Drug Control Strategy recognizes this reality. Its number one priority is to reinvigorate what must be a national anti-drug effort on behalf of our youth. At the same time, the Strategy seeks to organize better what must be a long-term effort to protect our citizens from drug-related crime and violence, reduce the health and social consequences of drug abuse, keep drugs out of our country, and reduce the cultivation and production of illegal drugs both at home and abroad. Our initial challenge is to gain consensus on the nature of the challenge we face. We must then expand community-based responses to the drug problem that are appropriately supported by federal anti-drug programs.

The impact of drug abuse in America is enormously complex. Drugs affect each individual in a different way; so too do they disrupt different facets of our society. The natural reaction to this diversity of effect has been the mobilization of a myriad of organizations, resources, and policies to deal with the human and social costs of illegal drugs. At the apex of all this activity is the Office of National Drug Control Policy. We are charged to coordinate and develop the strategy to counter this debilitating threat to our nation.

II. A REVIEW OF AMERICA'S DRUG ABUSE PROFILE

1. Fewer Americans are using illegal drugs

As a nation, we have made enormous progress in our efforts to reduce drug use (see figure A–1). While America's illegal drug problem remains serious, it does not approach the emergency situation of the late 1970's or the cocaine epidemic in the 1980's. Just 6 percent of our household population age 12 and over was using drugs in 1995 on a past month basis, down from 14.1 percent in 1979. Recreational cocaine use has also plunged. In 1995, 1.5 million Americans were current cocaine users, a 74 percent decline from 5.7 million a decade earlier. In addition, fewer people are trying cocaine. The estimated 533,000 first-time users in 1994 represented a 60 percent decline from approximately 1.3 million cocaine initiates per year between 1980 and 1984. It is clear that when we focus on the drug problem, drug use can be driven down.

2. There are encouraging signs that our drug control efforts are succeeding

1995 marked the first time in the past five years that drug-related emergency department episodes did not rise significantly. In fact, they dropped for cocaine. There was a steady decline in drug-related homicides between 1989 and 1995. The 1996

Monitoring the Future study found that the use of heroin, inhalants, and LSD decreased among tenth and twelfth graders between 1995 and 1996. Coca cultivation in Peru, the source of 57 percent of the cocaine on our streets, declined by a dramatic 18 percent in the past year. Federal anti-drug laws, together with federal, state, and local anti-drug programs, are making inroads into the nation's drug problem.

3. Drug use is skyrocketing among youth

The most alarming national drug trend is the increasing use of illegal drugs, tobacco, and alcohol among our youth. Children who use these substances increase the chance of acquiring life-long dependency problems. According to a study conducted by Columbia University's Center on Addiction and Substance Abuse (CASA), children who smoke marijuana are 85 times more likely to use cocaine than peers who never try marijuana. The use of illicit drugs among eighth graders is up 150 percent over the past five years. Fifty percent of our children now will have used an illegal drug by the time they graduate from high school. While alarmingly high, the prevalence of drug use among today's young people has still not returned to near-epidemic levels of the late 1970's. The most important challenge for drug policy is to reverse these dangerous trends.

4. The consequences of illegal drug use remain unacceptably high

The social and health costs to society of illicit drug use are staggering. Drug-related illness, death, and crime cost the nation approximately $67 billion a year. This cost is exacted in additional health care expenses, extra law enforcement, more auto accidents, increased crime, and lost productivity resulting from substance abuse. Illegal drug use hurts families, businesses, and neighborhoods; impedes education; and chokes criminal justice, health, and social service systems. Some of those consequences include:

a. Increased illness and death.—Drug-induced deaths increased 47 percent between 1990 and 1994 and now number approximately 14,000 a year. More than 2,400 Americans suffered drug or gang-related deaths in 1995. The nation's 3.6 million chronic drug users disproportionately spread infectious diseases like hepatitis, tuberculosis, and HIV. More than 33 percent of new AIDS cases can be traced to injecting drug users and their sexual partners. Indeed, AIDS is the fastest-growing cause of illegal drug-related deaths.

b. Record high drug-related medical emergencies.—In 1995, there were a record high 531,800 drug-related hospital emergency episodes, slightly more than 1994's 518,500 incidents. Cocaine-related episodes remain at an historic high while heroin-related emergencies increased by 124 percent between 1990 and 1995 (see figure A–2).

c. More heroin fatalities.—Heroin-related deaths increased between 1993 and 1994, the most recent years for which these statistics are available. In Phoenix, heroin fatalities were up 39 percent, in Denver—29 percent, and in New Orleans—25 percent.

d. Increased infant mortality.—About six percent of pregnant women are using illegal drugs and putting their children at risk. A Washington State study of Medicaid recipients showed an infant mortality rate of 14.9 per 1,000 births among substance-abusing women as compared to 10.7 per 1,000 for women who were not substance abusers. Children born to drug-abusing women were found to be 2.5 times more likely to die from sudden infant death syndrome.

e. Juvenile addiction to nicotine and smoke-related illnesses.—Every day, 3,000 children become regular cigarette smokers; as a result, one-third of these youngsters will die of a smoking-related disease. The vast majority of smokers (over 80 percent) first tried a cigarette before age eighteen.

f. Decreased workplace productivity.—Drug users bring inefficiency to the workplace. An ongoing Postal Service study has found that compared to non drug users, their absentee rates are 66 percent higher, their health benefit utilization rate is 84 percent greater in dollar terms, disciplinary actions are 90 percent higher, and their turnover rate is significantly higher. Clearly, productivity rates can be increased by making drug use less prevalent among workers.

g. Violent crime.—In 1995, a majority of arrestees tested positively for drug use (see figure A–3). Those arrested for robbery, burglary, and auto theft also had high positive rates. Many of the 12 million property crimes and two million violent crimes committed each year are drug-related.

h. Crowded prisons and jails.—In 1995, state and local law enforcement agencies made 1.4 million arrests for drug law violations. Almost 60 percent of federal prisoners are drug offenders as are 22 percent of the inmates in state prisons. More than 1.6 million Americans are now behind bars. Drug-related offenses account for

nearly three-quarters of the total growth in federal prison inmates since 1980 (see figure A–4).

5. Drug use is a shared problem

Many Americans erroneously believe drug abuse is not their problem. They have a misconception that drug users belong to a segment of society different from their own or that drug abuse is remote from their environment. They are wrong. Drug users permeate our society. They are our family members, classmates, teammates, neighbors, and coworkers. Seventy-one percent of illegal drug users aged eighteen and older (7.4 million adults) are employed. The majority are white. Approximately 45 percent of us know someone who has suffered a substance abuse problem.

While drug use and its consequences threaten Americans of every socio-economic background, geographic region, educational level, and ethnic and racial identity, the effects of drug use are often felt disproportionately. Neighborhoods where illegal drug markets flourish are plagued by attendant crime and violence. Americans who lack comprehensive health plans and who have smaller incomes are less able to afford treatment programs. Those who depend on social services are often deprived of their benefits because too high a proportion of a social worker's case-load is occupied by drug-related medical problems. What we must all understand is that no one is immune from the consequences of drug use; every family is vulnerable. We cannot mistakenly assume that illegal drugs are someone else's concern.

III. THE 1997 NATIONAL DRUG CONTROL STRATEGY: RESPONDING TO THE CHALLENGE

1. A comprehensive ten-year plan

The 1997 National Drug Control Strategy is America's main guide in the struggle to decrease illegal drug use and its consequences. Developed in consultation with public and private organizations, the Strategy provides a compass for the nation to reach this critical objective. It also provides long-term guidance. We propose a ten-year commitment supported by five-year budgets so that continuity of effort can help ensure success. The Strategy addresses the two sides of the challenge: reducing demand and limiting availability of illegal drugs. The document provides general guidance while identifying specific initiatives.

2. Strategic goals and objectives

The goals and objectives of the 1997 National Drug Control Strategy establish a framework for all national drug control agencies. They are intended to orient the integrated activity and budgets of all governmental bodies and private organizations committed by charter or inclination to reducing drug use and its consequences in America. Over the long term, these goals should remain relatively constant. Their supporting objectives allow for measurable progress and can be modified as success is achieved or new challenges emerge.

Goal 1: Educate and enable America's youth to reject illegal drugs as well as alcohol and tobacco.

Objective 1: Educate parents or other care givers, teachers, coaches, clergy, health professionals, and business and community leaders to help youth reject illegal drugs and underage alcohol and tobacco use.

Objective 2: Pursue a vigorous advertising and public communications program dealing with the dangers of drug, alcohol, and tobacco use by youth.

Objective 3: Promote zero tolerance policies for youth regarding the use of illegal drugs, alcohol, and tobacco within the family, school, workplace, and community.

Objective 4: Provide students in grades K–12 with alcohol, tobacco, and drug prevention programs and policies that have been evaluated and tested and are based on sound practices and procedures.

Objective 5: Support parents and adult mentors in encouraging youth to engage in positive, healthy lifestyles and modeling behavior to be emulated by young people.

Objective 6: Encourage and assist the development of community coalitions and programs in preventing drug abuse and underage alcohol and tobacco use.

Objective 7: Create a partnership with the media, entertainment industry, and professional sports organizations to avoid the glamorization of illegal drugs and the use of alcohol and tobacco by youth.

Objective 8: Support and disseminate scientific research and data on the consequences of legalizing drugs.

Objective 9: Develop and implement a set of principles upon which prevention programming can be based.

Objective 10: Support and highlight research, including the development of scientific information, to inform drug, alcohol, and tobacco prevention programs targeting young Americans.

Goal 2: Increase the safety of America's citizens by substantially reducing drug-related crime and violence.

Objective 1: Strengthen law enforcement—including federal, state, and local drug task forces—to combat drug-related violence, disrupt criminal organizations, and arrest the leaders of illegal drug syndicates.

Objective 2: Improve the ability of High Intensity Drug Trafficking Areas (HIDTA's) to counter drug trafficking.

Objective 3: Help law enforcement to disrupt money laundering and seize criminal assets.

Objective 4: Develop, refine, and implement effective rehabilitative programs—including graduated sanctions, supervised release, and treatment for drug-abusing offenders and accused persons—at all stages within the criminal justice system.

Objective 5: Break the cycle of drug abuse and crime.

Objective 6: Support and highlight research, including the development of scientific information and data, to inform law enforcement, prosecution, incarceration, and treatment of offenders involved with illegal drugs.

Goal 3: Reduce health and social costs to the public of illegal drug use.

Objective 1: Support and promote effective, efficient, and accessible drug treatment, ensuring the development of a system that is responsive to emerging trends in drug abuse.

Objective 2: Reduce drug-related health problems, with an emphasis on infectious diseases.

Objective 3: Promote national adoption of drug-free workplace programs that emphasize drug testing as a key component of a comprehensive program that includes education, prevention, and intervention.

Objective 4: Support and promote the education, training, and credentialing of professionals who work with substance abusers.

Objective 5: Support research into the development of medications and treatment protocols to prevent or reduce drug dependence and abuse.

Objective 6: Support and highlight research and technology, including the acquisition and analysis of scientific data, to reduce the health and social costs of illegal drug use.

Goal 4: Shield America's air, land, and sea frontiers from the drug threat.

Objective 1: Conduct flexible operations to detect, disrupt, deter, and seize illegal drugs in transit to the United States and at U.S. borders.

Objective 2: Improve the coordination and effectiveness of U.S. drug law enforcement programs with particular emphasis on the southwest border, Puerto Rico, and the U.S. Virgin Islands.

Objective 3: Improve bilateral and regional cooperation with Mexico as well as other cocaine and heroin transit zone countries in order to reduce the flow of illegal drugs into the United States.

Objective 4: Support and highlight research and technology—including the development of scientific information and data—to detect, disrupt, deter, and seize illegal drugs in transit to the United States and at U.S. borders.

Goal 5: Break foreign and domestic drug sources of supply.

Objective 1: Produce a net reduction in the worldwide cultivation of coca, opium, and marijuana and in the production of other illegal drugs, especially methamphetamine.

Objective 2: Disrupt and dismantle major international drug trafficking organizations and arrest, prosecute, and incarcerate their leaders.

Objective 3: Support and complement source country drug control efforts and strengthen source country political will and drug control capabilities.

Objective 4: Develop and support bilateral, regional, and multilateral initiatives and mobilize international organizational efforts against all aspects of illegal drug production, trafficking, and abuse.

Objective 5: Promote international policies and laws that deter money laundering and facilitate anti-money laundering investigations as well as seizure of associated assets.

Objective 6: Support and highlight research and technology, including the development of scientific data, to reduce the worldwide supply of illegal drugs.

3. Measures of effectiveness

The development of objective measurements of effectiveness is essential to the success of this Strategy. The very idea of strategy implies a dynamic effort. Conditions change over time; initial approaches to a particular problem may or may not continue to apply. Introspection regarding the effectiveness of chosen courses of action is imperative. Consequently, ONDCP and the federal Drug Control Program agencies are developing a national performance system to measure progress of major drug programs supporting the Strategy, to provide feedback for strategy refinement and system management, and to assist the Administration in resource allocation.

ONDCP has established a program evaluation office to oversee the design and implementation of this new system. A first set of targets and measures will be submitted for congressional review this fiscal year. The measurement system will be dynamic, flexible, and responsive. Our collective challenge is to reinforce success while not wasting resources on unproductive efforts. The performance measures system will be constructed in a way which ensures that sufficient time is allotted to a program for it to demonstrate success (an outline of this performance measurement system is provided at Appendix C).

4. Strategic initiatives

The key to a successful long-term strategy is mobilizing resources toward the systematic achievement of established goals. Any strategy—if it is to be effective—must be related to the resources it can put toward implementation. Included in this year's Strategy are some key initiatives—several of which ONDCP is responsible for implementing—to ensure steady progress toward decreasing drug use and its consequences. These include:

a. Youth-oriented initiatives

(1) The Youth-Oriented Anti-Drug Campaign.—Unfortunately, in recent years the number of drug-related public service announcements (PSA's) carried by television, radio, and print media have decreased markedly. The economics of the media industry have made advertising space so competitive that pro-bono advertising has dropped more than 30 percent in recent years. Even worse, virtually no PSA's appear in prime-time. We seek to reverse this trend by developing a public education campaign that supplements anti-drug announcements already offered by dedicated organizations like the Partnership for a Drug-Free America under Jim Burke's leadership and the Ad Council. The President's budget seeks to fund this targeted educational campaign through the $175 million provided in ONDCP's Special Forfeiture Fund. ONDCP will also seek matching private sector donations. Attitudes can be changed with accurate and convincing messages.

(2) Collaborating with the media and entertainment industries.—Youth, perhaps even more than the public at large, are affected by the icons of our society. The glamour of Hollywood movies, the charisma of celebrities, the perceived proximity of television stars, the prowess of accomplished athletes, and the artistry of musicians all sway young people's emotions. The creative talent of the entertainment industries can depict drug use and its consequences accurately, thereby increasing the perception of risk that young people associate with illegal drugs, alcohol, and tobacco. ONDCP will work with the entertainment industries to assist youths to form an accurate perception of the devastating consequences of illegal drugs.

(3) Broadening "drug-free zones" and preventing alcohol and tobacco use by youth.—Young Americans are more likely to use illegal drugs, alcohol, and tobacco if these substances are readily available or if their use is encouraged directly or subtly in youth-oriented materials. We must keep illegal drugs, alcohol, and tobacco out of areas where children and adolescents study and play. We must also depict these substances and their effects in accurate ways. In addition to promoting the idea that youth must be educated about the dangers of illegal drugs, the Strategy recommends educating youth, their mentors, and the public at large about the dangers of underage drinking and about the lethal effects of tobacco products. We must encourage communities to support alcohol-free and tobacco-free behavior on the part of youth.

(4) Expanding effective school-based prevention programs.—Schools offer both formal and informal opportunities for changing youth attitudes toward drugs. The Department of Education will continue to focus on improving the quality of drug and violence prevention programming and changing the attitudes of students and parents regarding illicit use of alcohol, tobacco, and drugs.

(5) Reducing drugged driving.—20 percent of high school seniors say they have smoked marijuana in a car. Law enforcement officers cite marijuana as the second-leading cause of drug-related car crashes after alcohol. The drugs and driving initia-

tive developed by ONDCP, DOT, and HHS is intended to reduce drug use by young people and driving under the influence of drugs.

(6) Countering Attempts to Legalize Marijuana.—A 1994 survey by CASA found that a twelve to seventeen-year-old who smokes marijuana is 85 times more likely to use cocaine than a non-marijuana smoking peer. Clearly, if we want to reduce the rate of teenage drug use and prevent American youth from using dangerous drugs like cocaine, we must continue to oppose efforts to legalize marijuana. Advocates for the legalization of marijuana are using two issues as subterfuges: "medical marijuana", and "industrial hemp".

(a) Medical marijuana.—The federal government has a responsibility to ensure the rule of law and protect the American people from unsafe, ineffective medicine. This is a critical Food and Drug Administration role. Marijuana continues to be designated a Schedule I drug under the provisions of the Controlled Substance Act, Title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970, because it has a high potential for abuse and no currently accepted medical use in the United States. The time-tested medical-scientific process has provided our society with the best health care system in the world. This is the only system which can determine drugs as safe and effective for therapeutic uses.

(b) Industrial hemp.—Hemp plants and marijuana plants are one and the same; they are Cannabis Sativa plants. They differ in that the cultivation process causes the plant to develop different characteristics. Marijuana growers seek to raise the psychoactive content of the plant while hemp growers bring out other characteristics of the plant. Federal law prohibits the cultivation of Cannabis Sativa because the primary purpose of growers has been to produce marijuana. Drug-legalizers seek to revoke this prohibition against the cultivation of hemp in order to camouflage drug crops.

According to the Department of Agriculture, there is little legal economic incentive for the cultivation of hemp. Their research suggests that linen manufactured from hemp would cost twice as much as the highest-quality flax linen. They also conclude that hemp is not economically viable as a source of paper pulp; the cost of cultivating a ton of raw hemp is higher than the value of a ton of finished newsprint. Department experts project that the total U.S. market for hemp products might reach five to ten millions dollars a year, which is an almost insignificant figure when considered within the context of a national agricultural sector that generates more than 200 billion dollars a year. Labor-intensive hemp products are, however, economically viable in countries like China and India where wages are low. Relaxing the ban on hemp cultivation in the United States would only result in increased availability of marijuana.

b. Initiatives to reduce drug-related crime and violence

(1) Integrating federal, state, and local efforts.—We are encouraging greater cooperation among our law enforcement agencies. Edward Byrne Memorial Grants will provide financial support to multi-jurisdictional task forces. Coordination is also facilitated by ONDCP's $140 million High Intensity Drug Trafficking Area (HIDTA) Program. This program facilitates coordination of anti-drug activities and investigations of federal, state, and local law enforcement agencies in areas that are critically affected by drug-related problems. The Bureau of Alcohol, Tobacco, and Firearms' Achilles Program is another important mechanism for fostering task-force approaches to drug law enforcement.

(2) Linking criminal justice and treatment systems.—Incorporating drug prevention and treatment programs within the criminal justice system can result in decreased drug use and criminal activity and lower recidivism. To that end, the Strategy encourages drug testing, treatment, and education for all prisoners. It also encourages expanded use of drug courts that offer incentives for drug rehabilitation in lieu of incarceration for non-violent drug users. Finally, the Strategy advocates "coerced abstinence" programs that incorporate progressive sanctions to encourage criminals to stop using illegal drugs. These programs have the potential to influence positively the two-thirds of the nation's chronic drug users who fall under the domain of the criminal justice system each year. More than 200 drug courts and community programs like Treatment Accountability for Safer Communities are already applying these principles and are helping non-violent, drug-using offenders to break the cycle of drugs and crime.

(3) Reducing the number of chronic drug users.—3.6 million chronic drug users are at the heart of America's drug problem. Two-thirds of the nation's supply of cocaine is consumed by just one-quarter of the drug-using population. These chronic users maintain drug markets, keep drug traffickers in business, and commit a disproportionately high percentage of drug-related crime. The Strategy focuses on helping the 3.6 million chronic drug users in America overcome addiction. Most of these drug

abusers are involved in one way or another with the criminal justice system. It is clear that the coercive power of the criminal justice system can be used to test and treat drug addicts arrested for committing crimes. Drug use by persons under supervision of the criminal justice system should not be tolerated. We can dramatically reduce the number of chronic drug users if we harness the potential of the criminal justice system (see figure A–5).

c. Initiatives to reduce health and social problems

(1) Lowering entry barriers to treatment programs.—The willingness of chronic drug users to undergo treatment is influenced by availability of treatment programs, affordability of services, access to publicly funded programs or medical coverage, personal motivation, family and employer support, and potential consequences of admitting a dependency problem. The Strategy seeks to reduce barriers so that more chronic users can begin treatment. Treatment programs must capitalize on individual motivation to end drug dependency. Publicly funded treatment must be accessible to people who cannot afford private programs or who lack adequate medical services.

(2) Addressing needs of the vulnerable.—The health consequences of drug abuse are especially acute for pregnant women, children they are carrying, adolescents, the mentally ill, and the poor. We encourage treatment programs that address the special needs of these population. We encourage states, communities, and health-care professionals to integrate drug prevention programs in prenatal, pediatric, and adolescent medical practices and clinics.

(3) Expanding drug-free workplace programs.—American businesses realize that keeping illegal drugs out of the workplace makes economic sense. Drug testing and employee assistance programs—when combined with supervisory concern, leadership, and support—reduce drug use. The share of major U.S. firms that test for drugs rose to 81 percent in January 1996. Our challenge is to expand these programs to the small business community that employs 87 percent of all workers.

(4) Expanding community anti-drug efforts.—The community-based anti-drug movement in this country is strong, with more than 4,300 organized coalitions. These coalitions are significant partners for local, state, and federal agencies working to reduce drug use, especially among young people. One of the most successful is the Miami Coalition established by Tad Foot and Alvah Chapman. The Community Anti-Drug Coalitions of America (CADCA) under Jim Copple's leadership has helped organize this community-based approach to the drug problem. They deserve our continued support and admiration.

d. Initiatives to shield our frontiers

(1) Organizing for success.—We are a great nation. When we apply ourselves to a focused cause, few obstacles can bar our way. Human obstacles, no matter how ruthless or well-financed, can almost certainly be overcome. We face an enormous organizational challenge at our borders and in the air and maritime approaches to the United States. Our status as the preeminent commercial nation in the world makes us particularly vulnerable to drug trafficking. More than 400 million people enter the United States every year; any one of them can carry several million dollars worth of heroin. Four hundred million tons of cargo also enter our country every year. Illegal drugs represent 0.00001 percent of that traffic. Our challenge is to stop the one millionth part that represents illegal drugs without significantly affecting legal commerce and movement, which represents the life-blood of our country. We have the capacity to be successful until we not only appreciably lessen the quantity of drugs on our streets but also make serious inroads into the ability of international thugs to continue operating. Such progress requires commitment, organization, and dogged effort. The National Drug Control Strategy reflects all of that. Our job is to ensure that it is implemented.

(2) Addressing all drug entry points.—The greater our success at interrupting drug trafficking along any particular border, the more traffickers attempt to introduce illegal drugs elsewhere. Consequently, we must develop a comprehensive, coordinated capability that allows the federal government to focus resources in response to shifting drug-trafficking threats. Existing organizations and initiatives—such as the three U.S. military Joint Inter-Agency Task Forces, the Immigration Service's Inspections Branch, the Border Patrols' surveillance operations between ports of entry, and the Customs Service's Domestic Air Interdiction Coordination Center—have increased our effectiveness and are the building blocks for this effort.

(3) Preventing drug trafficking across the Southwest border.—If a single geographic region were to be identified as a microcosm of America's drug problem, it would be the two thousand mile-long U.S.—Mexican border. Cocaine, heroin, methamphetamine, and marijuana all cross into the United States here, hidden among

the 84 million cars, 232 million people, and 2.8 million trucks that the Customs Service estimates cross the 38 ports along the border. American and Mexican ranchers are continually threatened and often harmed by violent bands of drug runners openly crossing their property.

Significant reinforcements have been committed to the substantial resources already focused on the Southwest border. Our challenge is to design and implement an overarching operational strategy that better organizes our interdiction operations. We must focus resources, provide timely and accurate intelligence on the activities of drug traffickers, develop evidence for prosecutions, and respond to shifting drug-trafficking patterns.

(4) Closing the Caribbean "back door."—Our intelligence estimates that the Caribbean is the second-most significant drug-trafficking route into the U.S. after Mexico. Puerto Rico and the U.S. Virgin Islands are particularly targeted because of the absence of Customs inspections between these U.S. territories and the mainland. We will continue to integrate our operations throughout the Caribbean while building on successful programs such as the Puerto Rico/Virgin Islands HIDTA and ongoing Border Patrol, Coast Guard, and Customs' operations. A particular challenge is finding ways to help small island nations develop autonomous and collective capabilities to curtail drug trafficking, confront corruption, and prevent money laundering. The U.S. Interdiction Committee, under the leadership of Admiral Bob Kramek, the Coast Guard Commandant, will continue to provide oversight to U.S. interdiction efforts across the breadth and depth of the Caribbean.

(5) Assuring informed drug policy.—National Drug Control Program agencies must be supported by a national drug intelligence system that provides intelligence and information at all levels—strategic, operational, and tactical. While the federal government has already made a substantial investment in counterdrug intelligence capabilities, there are some areas where our information base could be significantly improved. Consequently, ONDCP is coordinating an extensive review of the federal drug control intelligence architecture based on the following tenets:

(a) The National Drug Control Strategy and its implementing programs must be information-based and intelligence-driven.

(b) Counterdrug intelligence products must support the needs of policy makers, operational planners, and the courageous men and women who confront criminal drug organizations both at home and abroad.

(c) No criminal organization can compete with a U.S.-backed, well-organized, streamlined, and integrated intelligence structure.

e. Initiatives to reduce drug availability

(1) Bilateral cooperation with Mexico.—We share the Congress' concerns about our bilateral efforts to achieve results in combating the production of and trafficking in illicit drugs. Significant quantities of heroin, methamphetamines, and marijuana used in the United States are produced in or pass through Mexico. Approximately 57 percent of the cocaine used in the United States is imported through Mexico. These drugs are moved across the Southwest border by criminal organizations, the largest of which operate on both sides of the border. Their actions, profits, and use of violence are a major cause of corruption on both sides of the border. We agree that the success of efforts to control drug trafficking depends on improved coordination and cooperation between Mexico and United States drug law enforcement agencies and other institutions responsible for activities against production, traffic, and abuse of illegal drugs, particularly in the common border area. This was one of the major issues of discussion during the President's trip to Mexico last week.

The President's decision in March to certify Mexico's counterdrug efforts was based upon Mexico's accomplishments last year. President Zedillo has identified drug trafficking as the principal threat to Mexico's national security. Under his leadership, Mexican drug seizures increased notably in 1996, with marijuana seizures up 40 percent over 1994 and opium-related seizures up 41 percent. No other nation in the world eradicated as many hectares of illegal drugs as did Mexico in 1996. Mexico is clearly serious about responding effectively to the massive threats of violence and corruption generated by the approximately 50 billion dollars of U.S. expenditures on illegal drugs. Indeed, large numbers of Mexican police officers, prosecutors, and military have been killed while fighting to protect the Mexican people against drug-related threats.

However, Mexico is facing an emergency situation of violence and corruption. Much more needs to be done. We shared the dismay of Mexican authorities at the revelation that Mexico's top anti-drug official, General Gutierrez Rebollo, was closely associated with the Carrillo Fuentes drug-trafficking organization. This high level betrayal underscores the enormous corrupting influence and violence of the illegal drug trade. There is no doubt that Mexican democratic institutions are under brutal

internal attack by international drug criminals. We are encouraged by President Zedillo's dedication to rooting out corruption no matter where it is found. We are confident that we can demonstrate to our two peoples over the coming year the concrete results of continued cooperation.

(2) Making cocaine less available.—Our national efforts against coca cultivation and the production and trafficking of cocaine must be guided by our western hemisphere counterdrug strategy. Major initiatives include:

(a) Reduction of coca cultivation.—We are supporting effective coca cultivation reduction programs in South America. We are encouraged by the dramatic 18 percent reduction in coca cultivation in Peru last year. For the first time in ten years, Peruvian coca cultivation has dropped below 100,000 hectares. Our goal of significantly reducing the cultivation of illegal coca within the next decade is achievable. Our primary focus will be on alternative economic development in Peru—the source of 57.5 percent of the U.S. cocaine.

(b) Interdiction.—We have demonstrated that interdiction efforts in the source country zone can disrupt trafficking patterns significantly. Carga flights (cocaine-carrying Caravelles and Boeing 707's) between Colombia and Mexico have stopped. We have badly damaged the Andean air bridge between Peru and drug processing laboratories in Colombia. Over the past decade, U.S. and international interdiction efforts have consistently intercepted about a third of the coca produced in South America (see figure A–6). Our challenge now is to react flexibly and block drug traffickers as they attempt to develop alternative river, ground, and maritime routes. In the transit zone of the Caribbean, Central America, Mexico, and the eastern Pacific, we must continue to conduct flexible, in-depth, intelligence-driven defenses. Even now, drug traffickers are using shipping containers, cargo ships, and fishing trawlers to compensate for our effectiveness against aerial smuggling. The leadership of U.S. Southern Command in their new Miami Headquarters under the recently rationalized, single Unified Command Plan, will dramatically increase the coherence and coordination of U.S. north-south drug interdiction activities.

(c) Actions against trafficking organizations.—The power, wealth, and sophistication of Colombian, Mexican, Dominican, and other drug syndicates pose enormous threats to governmental and judicial institutions in many Western hemisphere countries. Our international cocaine control strategy will continue to include an across-the-spectrum attack on these criminal organizations.

(3) Making heroin less available.—Efforts against production and trafficking of heroin will continue to be guided by the U.S. heroin control policy of November 1995. The heroin interdiction challenge is enormous. Potential global heroin production has increased about 60 percent in the past eight years to approximately 360 metric tons. In 1995, worldwide heroin seizures totaled 32 metric tons, less than 10 percent of the global production potential. U.S. heroin seizures were just 1.3 metric tons. The U.S. demand for approximately 10 tons of heroin consumed by 600,000 addicts represents a fraction of the production potential.

Our heroin control efforts must take these realities into account. We must work through diplomatic and public channels to promote international awareness of the heroin threat. We must help strengthen law enforcement efforts in heroin source and transit countries and bring cooperative law enforcement efforts to bear against processing and trafficking. These and other international challenges were raised by ONDCP during a recent session of the OAS Inter-American Drug Abuse Control Commission in Washington, D.C.

(4) Countering the methamphetamine threat.—Methamphetamine abuse has been a growing problem on the West Coast and in the Southwest and Midwest. Methamphetamine is manufactured in both California and Mexico. It has also been produced in rural areas of the Midwest. All that is required to start up a methamphetamine laboratory is $100 worth of supplies, readily available from retail stores, and an Internet recipe. Methamphetamine production is increasing in California and the Midwest. DEA reported that "meth" lab busts increased 169 percent nationally in 1996 to 879. Lab busts in California were up 72 percent in 1996. This drug is an extremely addictive substance with long-lasting effects. Those under its influence often act violently (see figure A–7).

(5) Measuring and reducing illegal domestic marijuana cultivation.—Our domestic cannabis crop reduction efforts must be supported by accurate information about drug crop locations and potential yields. We currently have no accurate estimate of the extent of domestic marijuana cultivation, although we know that much of the marijuana smoked in the U.S. is cultivated domestically commercially, privately, outdoors, and indoors. ONDCP will coordinate the development of a domestic marijuana crop measurement program and more effective domestic eradication efforts.

(6) Controlling the diversion of precursor chemicals.—Drug production can be dramatically curtailed if the necessary precursor chemicals can be controlled. We are

encouraged that the importance of controlling chemicals is internationally accepted, and we will continue to urge adoption of chemical control regimes by other nations, e.g., Mexico's 1996 law criminalizing precursor chemical trafficking.

IV. FUNDING THE 1997 NATIONAL DRUG CONTROL STRATEGY [1]

1. Request for $16.0 billion in fiscal year 1998

Progress on the drug front cannot be achieved without the funding necessary to educate children, reduce violent drug crime, treat addicted citizens, protect our borders, and address foreign and domestic sources of supply. To support these goals for fiscal year 1998, the President has requested $16.0 billion to fund drug control efforts. This request represents an increase of $818 million (5.4 percent) over the fiscal year 1997 level of $15.2 billion. The greatest proportion of spending, 35 percent, is for programs that increase the safety of America's citizens by reducing drug-related crime and violence. Budgetary highlights include:

a. $620 million for Safe and Drug-Free Schools and Communities—an increase of $64 million (11.5 percent) over fiscal year 1997.

b. $522 million for prevention and treatment research by the National Institute of Health (NIH)—an increase of $33 million (6 percent) over fiscal year 1997.

c. $510 million for Community Oriented Policing (COPS)—an increase of $41 million (9 percent) over fiscal year 1997.

d. $367 million in drug-related resources for the Immigration and Naturalization Service (INS)—an increase of $48 million over fiscal year 1997. (The overall INS request provides for an additional 500 Border Patrol agents to stem the flow of illegal drugs and illegal aliens across the Southwest Border).

e. $214 million for the State Department's Bureau of International Narcotics and Law Enforcement Affairs (INL), including $40 million for coca cultivation reduction and cocaine interdiction programs in Peru—an increase of $17 million (74 percent) over fiscal year 1997.

f. $75 million for drug courts—an increase of $45 million (150 percent) over fiscal year 1997.

2. ONDCP fiscal year 1998 budget request of $351.223 million

ONDCP is an organization of committed professional men and women. We will have 124 full-time employees (FTE's) and 30 detailees once hiring has been completed (see organizational chart at Appendix C). This fiscal year 1998 budget includes:

a. $175 million to support a national media campaign for youth.—Drug use has gone up among America's youth during the past five years (See figure A–8). The principal reasons that more of our children are using drugs is that fewer of them disapprove of illegal drug use and fewer perceive regular drug use as dangerous. The University of Michigan's Monitoring the Future Study makes clear this association between attitudes and usage rates. The Assets Forfeiture Amendments Act of 1988 established the Special Forfeiture Fund (SFF) in order to provide ONDCP with supplementary resources for critical counterdrug programs. In fiscal year 1998, ONDCP is requesting $175 million to support a National Media Campaign for Youth. This initiative supports the 1997 National Drug Control Strategy's first goal—"Educate and enable America's youth to reject illegal drugs as well as alcohol and tobacco."

The campaign will use both paid and public service television announcements to inform youth and their parents of the consequences of drug use. Targeted TV ads are among the quickest, most efficient and effective means of reducing drug use. They can modify adolescent perception of drug harmfulness and increase societal disapproval of drugs. They can also reach "baby boomer" parents who may be ambivalent about sending strong antidrug messages to their children. ONDCP believes this campaign can help to reduce youth drug use dramatically.

b. $140.207 million for the High Intensity Drug Trafficking Area (HIDTA) program.—The congressionally-mandated HIDTA program facilitates coordination of anti-drug activities and investigations of federal, state, and local law enforcement agencies. The HIDTA program designates critical geographic areas to which federal resources are allocated to link local, state, and federal drug-enforcement efforts. Properly targeted, HIDTA's offer greater efficiency in countering illegal drug trade in local areas. HIDTA programs are based on a logical, comprehensive methodology for prioritizing needs and working with other initiatives. Since January 1990, coun-

[1] NOTE: Charts summarizing the fiscal year 1998 counterdrug budget are provided at Appendix B).

ties in the following 15 areas of the United States have been designated as HIDTA's:

—1990: New York/New Jersey, Co-chairs, New York City Police Commissioner Howard Safir and U.S. Attorney Mary Jo White; Los Angeles, Chair, Assistant U.S. Attorney Lisa Lench; Miami, Chair, Special Agent-in-Charge Doyle Jourdan, Florida Department of Law Enforcement; Houston, Chair, Special Agent-in-Charge Don Clark, FBI; and Southwest Border, Director, Mr. Dennis Usrey.

—1994: Baltimore/Washington, D.C., Chair, Dr. Peter Luongo, Ph.D. Clinical Director, Adult Mental Health and Substance Abuse Services; and Puerto Rico/U.S. Virgin Islands, Chair, U.S. Attorney Guillermo Gil.

—1995: Chicago, Chair, Assistant U.S. Attorney Mark Prosperi; Atlanta, Chair, U.S. Attorney Kent Alexander; and Philadelphia/Camden, Chair, U.S. Attorney Michael Stiles.

—1996 designations include: Rocky Mountain HIDTA (Colorado, Utah, and Wyoming), Chair, Special Agent Michael DeMarte, DEA; Gulf Coast HIDTA (Alabama, Louisiana, and Mississippi), Chair, Special Agent in Charge Ron Caffrey, DEA; Lake County HIDTA (Lake County, Indiana), Chair, U.S. Attorney Jon E. DeGuilio; Midwest HIDTA (Iowa, Kansas, Missouri, Nebraska, and South Dakota), focused on methamphetamine, Chair, U.S. Attorney Thomas J. Monaghan; and Pacific NW HIDTA (Washington Cascades), Chair, U.S. Attorney Kate Pflaumer.

The fiscal year 1998 request for $140,207,000 for the HIDTA program is the same as the fiscal year 1997 enacted HIDTA budget. In fiscal year 1997, $14.2 million in discretionary funds were allocated to the HIDTA program. Those funds are being used as follows:

(1) $9 million to expand the Chicago, Philadelphia/Camden, and Atlanta HIDTA's ($3 million to each).

(2) $2 million in seed money for the creation of new HIDTA's in San Francisco and Detroit ($1 million each) upon completion of the designation process.

(3) $1.45 million for the New York/New Jersey HIDTA to support the Northern Manhattan Initiative (investigation of violent drug trafficking gangs).

(4) $1.45 million for the Southwest Border HIDTA to establish regional tactical coordination centers.

(5) $200,000 to fund a study to develop a system for identifying areas that should be supported by HIDTA's in the future.

(6) $100,000 for the Houston HIDTA to incorporate several counties in the Corpus Christi area upon completion of the designation process.

c. $18.016 million for ONDCP salaries and expenses.—This request will allow ONDCP to discharge its extensive responsibilities established by the 1988 Anti-Drug Abuse Act (Public Law 100–690) and Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322). These include:

(1) Public Law 100–690 Responsibilities

(a) Develop the National Drug Control Strategy.

(b) Develop a consolidated National Drug Control Budget proposal.

(c) Certify drug control budgets of programs, bureaus, agencies, and departments.

(d) Coordinate and oversee federal anti-drug policies and programs.

(e) Encourage private and public sector drug prevention and control initiatives at federal, state, and local levels.

(f) Designate High Intensity Drug Trafficking Areas (HIDTA's) and improve cooperation between federal, state and local law enforcement partnerships in those areas.

(g) Operate a Counterdrug Technology Assessment Center (CTAC) to serve as the central counter-drug enforcement research and development center of the federal government.

(2) Public Law 103–322 Responsibilities

(a) Formulate drug budget initiatives.—ONDCP is required to request heads of departments or agencies to include in their departments' or agencies' budget submission to OMB funding requests for specific initiatives consistent with priorities established in the National Drug Control Strategy.

(b) Issue budget guidance.—ONDCP is required to provide, by July 1 of each year, budget recommendations to drug control agencies for the budget being formulated by the President.

(c) Certify federal Drug Control Program agency budgets.

(d) Direct possible staff and budget resource transfers.—ONDCP may transfer department or agency drug program personnel on temporary detail to another depart-

ment or agency, or transfer up to two percent of the funds appropriated to a Drug Program agency account to a different Drug Control agency with the approval of the House and Senate Appropriations Committees.

(e) Issue funds control notices.—ONDCP may direct that all or part of an amount appropriated to the National Drug Control Program agency account be obligated by months, fiscal year quarters, or other time periods; and activities, functions, projects, or object classes.

(f) Assess the drug situation.—ONDCP is required to include in each National Drug Control Strategy an evaluation of the effectiveness of federal drug control programs during the preceding year.

(g) Evaluate data system adequacy.—ONDCP is required to include in each Strategy an assessment of the quality of current drug use measurement instruments and techniques to measure supply reduction and demand reduction activities; an assessment of the adequacy of the coverage of existing national drug use measurement instruments and techniques to measure the casual drug user population and groups at risk for drug use; and a discussion of the actions ONDCP shall take to correct the deficiencies and limitations identified.

(h) Evaluate treatment system adequacy.—ONDCP is required to include in each Strategy a discussion of the specific factors that restrict the availability of treatment services to those seeking it, along with proposed administrative or legislative remedies to make treatment available to individuals in need.

(i) Evaluate Strategy functional programs.—ONDCP is required to include in each Strategy an assessment of drug use and availability in the United States, focusing particularly on the effectiveness of interdiction, treatment, prevention, law enforcement, and international programs.

In 1996, ONDCP discharged its extensive responsibilities in the following ways:

(1) Consulting public officials.—Every cabinet officer and all departments and agencies participated in the development of strategic goals and objectives and in the formulation of supporting budgets, initiatives, and programs. Similarly, views and suggestions were solicited from every Member of Congress. At the state and local levels, ONDCP sought input from each state governor along with those from American Samoa, Puerto Rico, and the U.S. Virgin Islands, and from mayors of every city of 100,000 or more people. Views from public officials overseeing federal, state, and local prevention, education, treatment, law enforcement, correctional, and interdiction activities were also requested.

(2) Consulting the private sector.—Suggestions were received from: representatives of more than 4,300 community anti-drug coalitions; chambers of commerce; editorial boards; non-governmental organizations; professional organizations (i.e. actors' guilds, bar associations, business associations, educational groups, law enforcement and correctional associations, medical associations, and unions); religious institutions; and private citizens including chronic drug users, inmates, parents, police officers, prevention specialists, recovered addicts, students, teachers, treatment providers, and victims of drug-related crimes. I also joined many members of Congress in their states and districts to learn more about the drug problem and observe solutions. The interest displayed by all and the thousands of unsolicited letters received at ONDCP underscore that a majority of Americans believe that drug use and drug-related crime are among our nation's most pressing social problems.

(3) Keeping the Congress informed.—The Office of National Drug Control Policy testified at 13 Congressional hearings in 1996. Topics included: drug policy priorities; the federal drug control budget; international drug control programs; drug trafficking in the Western hemisphere; preventing drug trafficking across the Southwest border; juvenile drug use trends; drug interdiction efforts; the global heroin threat; making cocaine less available; Arizona's Proposition 200, California's Proposition 215, and similar efforts in other states.

(4) Keeping the American people informed.—ONDCP has supported the anti-drug efforts of every national television network and numerous local television and radio organizations over the past year; more than 200 exclusive interviews were conducted. Detailed briefings were provided to the editorial boards of 24 newspapers and magazines. Spanish-language materials were generated for media organizations that serve Hispanic-Americans. A web site (www.ncjrs.org) and toll-free telephone service (1–800–666–3332) staffed by drug policy information specialists provide drug-related data, perform customized bibliographic searches, advise requesters on data availability and of other information services, and maintain a public reading room. In addition, ONDCP maintains a "home page" that provides up-to-date information about the Office of National Drug Control Policy and drug policy issues.

(5) Building support for U.S. international drug control programs.—Leaders from key drug production and trafficking nations were briefed on the international components of the National Drug Control Strategy. Support for U.S. drug control efforts

was also developed among important international and multilateral organizations such as the United Nations Drug Control Program, the Association of Southeast Asian Nations, the European Union, and the Organization of American States. ONDCP also sought to inform international non-governmental organizations such as the International Commission of the Red Cross and the Washington Office on Latin America about U.S. drug control efforts.

(6) Convening or participating in conferences and meetings.—ONDCP briefed participants in numerous gatherings of organizations like the National Governors' Association, the Conference of Mayors, the National Association for the Advancement of Colored People, the American Medical Association, the American Bar Association, Boys and Girls Club of America, D.A.R.E., PRIDE, National Families in Action, and the National Association of Police Officers. ONDCP also participated in major international conferences in Geneva, São Paulo, and Vienna. Additionally, ONDCP convened or participated in the following conferences and meetings to promote greater coordination of international, federal, state, and local anti-drug efforts; consider emerging problems; and consult experts as the 1997 Strategy was being developed.

(a) The President's Drug Policy Council.—Established by the President in March 1996, this cabinet-level organization met on May 28, 1996 and December 12, 1996 to assess the direction of the National Drug Control Strategy and discuss drug policy initiatives. Members of the council include heads of drug control program agencies and key presidential assistants.

(b) Southwest Border Conference.—El Paso, Texas, July 9–10, 1996. Federal, state, and local representatives met to discuss the challenge of stopping drug trafficking across the 2,000 mile-long U.S.-Mexico border.

(c) HIDTA Conference.—Washington, D.C., July 15–16, 1996. Participants considered how the congressionally-mandated HIDTA program can better coordinate regional law enforcement efforts.

(d) USIC/J–3 Counterdrug Quarterly Conference.—Washington, D.C. These meetings provided a forum for executive-level discussions of U.S. international drug interdiction programs.

(e) California Proposition 215/Arizona Proposition 200 Briefing.—Washington, D.C., November 14, 1996. State, local, and community leaders briefed federal department and agency representatives on the recently-passed ballot initiatives as the federal response to both measures was being formulated.

(f) Entertainment Industry.—Hollywood, California, January 9–10, 1997. ONDCP met with leaders in the entertainment industry to discuss how the national drug prevention effort might be supported by the creative talents of the broadcast, film, and music industries.

(g) Methamphetamine Conference.—San Francisco, California, January 10, 1997. The purpose of this regional meeting was to examine the growing methamphetamine problem in western states, review progress made since the April 1996 release of the National Methamphetamine Strategy, and consider appropriate responses. A follow-on national methamphetamine conference will be held May 28–29, 1997 in Omaha, Nebraska.

c. $17 million for the Counterdrug Technology Assessment Center (CTAC).—CTAC was created to serve as the central counter-drug research and development center for the federal government. Today, CTAC provides minimum but crucial funding for special research not covered by other agencies. It also assists law enforcement and demand reduction agencies in incorporating advanced technologies into their operations. Specific projects being supported by CTAC include research and development for therapeutic drugs to counteract or block the effects of cocaine abuse and development of cargo inspection technologies. CTAC conducts technology conferences and symposia, benchmark testing, and assessments of emerging technologies and systems. CTAC develops its long-term technology research and development strategy in conjunction with the Science and Technology Committee.

d. $1 million for ONDCP-coordinated policy research.—ONDCP conducts research to inform the policy process, identify and detail changing trends in the supply of and demand for illegal drugs, monitor trends in drug use, identify emerging drug problems, assess program effectiveness, and improve the sources of data and information about the drug problem. ONDCP-supported research activities include:

(1) Pulse Check.—This is a report on current drug use and emerging trends, based on qualitative information from the police, ethnographers, and epidemiologists working in the drug field, and drug treatment service providers across the country. This project is one of the best sources of current intelligence and data on drug use.

(2) Retail value of drugs sold in the United States.—This is an annual project to determine how much Americans spend on illegal drugs. The report focuses on the retail sales value of cocaine, heroin, marijuana, and other illegal drugs. It provides

ONDCP's estimates of the size of the chronic user population and the extent of drug use.

(3) Drug market analysis.—Working with the National Institute of Justice, ONDCP is using the Drug Use Forecasting system as a vehicle to analyze drug markets. This project will provide information on drug dealing and the drug/crime connection.

(4) Chronic user survey.—This project will develop a new methodology to provide a means to estimate the size, location, and characteristics of the chronic population of drug users in the United States. It involves the development of mathematical models to determine the demographics of chronic drug users.

(5) Survey of illicit drug prices.—This project generates quarterly and annual illicit drug prices and purities for the U.S. and selected cities and is used to monitor market trends and support other research projects related to the illicit drug market.

(6) Policy studies/briefs.—ONDCP commissions these studies for topical drug policy issues. In the past, studies and analyses have been conducted on treatment programs, transit zone interdiction efforts, and the progression of drug use.

(7) Juvenile drug and violent crime study.—This project is a major effort to analyze the juvenile drug and violent crime issue from a public policy perspective. The project will also identify other types of risk behavior that may lead, facilitate, or predict entry into drug dealing and violent crime.

V. CONCLUSION

We remain confident that drug use and its consequences can be substantially reduced through a sustained and coordinated effort. The 1997 National Drug Control Strategy and the supporting fiscal year 1998 counterdrug budget submitted for your consideration will foster bipartisan consensus on national drug control policy, allow us to expand on notable successes, and attain the objective of reducing drug use and its consequences in America.

ONDCP plays a critical role in the national drug control effort. This small but vital agency remains committed to the task of developing and sustaining a cooperative, bipartisan anti-drug effort that involves all branches and departments of the federal government and incorporates extensive initiatives that are ongoing in our states, cities, and more than 4,300 communities. All of us at the Office of National Drug Control Policy appreciate the support of the Committee over the past year. You have provided encouragement and resources to reduce drug abuse and its consequences in America.

ONDCP's current statutory authorization sunsets on September 30, 1997. The logic that caused the Congress to conclude that a coordinating drug policy entity such as ONDCP was required still applies today. The Administration has transmitted for Congressional consideration a reauthorization bill (the Office of National Drug Control Reauthorization Act of 1997) which we believe will improve our ability to develop, coordinate and implement the National Drug Control Program. We would welcome the opportunity to brief you on the proposed modifications to ONDCP's charter.

We are proud of our accomplishments but recognize that we face enormous challenges. Our biggest challenge is to reverse the five-year trend of increased drug use by our children. We must further reduce drug-related crime and violence. We must reduce the health and social consequences of drug abuse. We must better organize our efforts to keep drugs out of America. Finally, we must develop more effective supply-reduction efforts so that we can reduce the quantity of illegal drugs that are cultivated and produced both at home and abroad.

Chairman Nighthorse Campbell, Senator Kohl, and other members of the Committee, we will continue to rely upon your guidance as we continue our important work. We welcome your continued involvement and oversight. Working together, we can succeed in better protecting our children, citizens, communities, schools, workplaces, and homes from the menace of illegal drugs.

[CLERK'S NOTE.—The charts referred to in General McCaffrey's statement do not appear in the hearing record but are available for review in the subcommittee's files.]

INCARCERATION

Senator CAMPBELL. I have to tell you, General, your statistics are just astounding. I was just jotting them down as you were speaking them. Two-thirds of Federal prisoners now, are in for drug-related

charges, $17 billion per year, highest per capita of incarceration of any industrial country, 1 million drug arrests a year, and so on.

You probably know my feeling about the so-called drug war, and I am a big supporter of incarceration and interdiction and all the rest of it. I have always felt that we fall down on rehabilitating people because we have this kind of cycle where they keep coming back in.

You mentioned 7 percent, did I hear you right? Only 7 percent of the prisoners are now in treatment that need treatment? Is that what your statement was?

General MCCAFFREY. These data are all a little bit soft, but essentially we say we have 50 percent of the national treatment capacity we need, and only 7 percent of what we require for the prison system. So a minor percentage of what we require.

The first increase we had in drug treatment was under President Bush. Thank God, he doubled it (from $1 to $2 billion). Since then, under this administration, it is now up to around $3 billion. We have added a third $1 billion.

Senator CAMPBELL. I am trying to think in terms of number of people in prison. Can I interpret that to mean that the vast majority of them that need treatment are not getting it?

General MCCAFFREY. That is exactly correct. We have been willing to pay an average of $22,800 a year to lock people up. We have been unwilling to put into the equation the treatment in prison and the follow-on care required to address this problem.

Senator CAMPBELL. I think we have talked in private about that and the problem in this place is that we get elected every 2 years on the other side, and one-third of us are up every 2 years on this side. And it is so much easier to talk about how tough we are than how we are trying to treat the root cause of it.

Somehow, telling people we are going to lock them up and throw away the key forever sells better on election day than it does to say we are going to spend some money on treatment and rehabilitation. Until we put more emphasis on rehabilitation and treatment as part of that, we are going to continue this never-ending escalation, I think, of people in prison that have drug-related beefs.

Let me ask you a couple of questions here. As I understand it, ONDCP is required by the Anti-Drug Abuse Act of 1988 to publish the national drug control strategy each year. Section 1001 of that act requires that the director consult with State and local officials in developing a strategy, which of course I applaud and I think most of our members do.

I am informed by the Colorado Department of Public Safety that ONDCP provided only 5 days for the department to provide input into the strategy, which they do not think is enough and I certainly do not think it is enough. Is that a national average? Could you respond to that?

General MCCAFFREY. I cannot respond directly to that timeframe. I think there has been an ongoing interaction with literally thousands of people across the country that gave folks in law enforcement and drug treatment prevention an opportunity to respond. I personally read every one of them.

I do not know. I can look into this one instance, but clearly we get some 15,000 letters a month, some 6,000 phone calls, hundreds

of visitors. Now part of it may be when we started this process we had 25 folks. We have been staffing up to try and just respond to the input from America. The folks that wrote the strategy started off with three of them and I think now we have about 10 or 12 in that subdepartment.

We will get back to Colorado and find out how we can be more attentive to their needs.

Senator CAMPBELL. I would appreciate it if you would get back to me. I am not only interested because of the State of Colorado, I was wondering if that was an average for all of the States because I know in our State some of our local officials, in fact, have—this is supposed to be a Federal strategy and is supposed to be with State initiative, but it has kind of left them out of the loop because they simply do not have the time to be able to respond.

General MCCAFFREY. Your point is a good one, Senator. This is the eighth strategy, so it happens every year and actually we can accept input at any time. It does not have to be in response to a formal request, and we get a lot of input.

But I think those letters all go out in the summer and we table the strategy in April.

YOUTH PREVENTION PROGRAMS

Senator CAMPBELL. In March of this year, the GAO issued a report to Congress highlighting two types of youth prevention programs that are showing some potential. One of them was a problem-solving, decisionmaking, training modification attitudes that encouraged drug use. And the other uses many of the aspects of a child's life in combining schools, community, family in kind of a comprehensive approach.

Could you tell me what the average target age is for these youth prevention programs?

General MCCAFFREY. Of those two, I cannot. There are several major areas of support for drug prevention in the Departments of Education, Health and Human Service and others. We even have aspects of National Guard budget to support the prevention programs.

Our central scheme has been that there should be a consistent and appropriate message from kindergarten through the 12th grade that takes into account the circumstances of the adolescent population you are talking to. So it should not be the same cookie cutter program for Samoan youth as for suburban Detroit. A lot of these funds are decentralized.

Safe and Drug Free Schools, as you know, goes out as a block grant which then is appropriated to support several different kinds of programs. A part of our program is an evaluation component of the effectiveness of some of these measures.

ONDCP'S AD CAMPAIGN

Senator CAMPBELL. That was going to lead to another question and I noticed with interest those ads. Have you found that the peer type of ads in which youngsters are dealing with youngsters are more effective than the so-called role model ads in which maybe professional athletes or people of stature in the community talk

about decreasing the use of drugs? Have you found which is the more effective?

General MCCAFFREY. There is a considerable body of experience, particularly out of Partnership for Drug-Free America but also others, on what works and does not work. I think there is considerable evidence that these public service announcements can change youth attitudes.

Jim Burke and I have talked about it being essentially a 2-year effort to start to reverse youth attitudes on disapproval rates of drugs. I might also add, Mr. Chairman, that some of these—the TV ads are one approach but there are other approaches. We are into print media, billboards, radio as well as TV.

Some of these ads should also be aimed not at the children but at their parents. So I think we need a lot more work as we design next year's hopefully $175 million effort with a matching $175 million pro bono effort. We are going to try to get out of America a matching amount of free air and print time. But there is a body of evidence on what works and does not work.

Senator CAMPBELL. I note with interest, in some States they are taking youngsters who are right on the edge into prisons themselves and letting them talk or letting inmates talk to them about what went wrong in their life and I do not know if that works or not, but it is an interesting concept.

General MCCAFFREY. I think it does. I am a little bit nervous about endorsing it here because there is also a counter-argument that I have read that is compelling that says watch out on putting the adolescent recovering addict in front of the schools for fear that that behavior becomes sort of a way in which you can generate interest and sympathy in the addicted. I am not sure where I come down on that.

I think, though, when it gets into advertising, thank God we have one of the most creative industries in America that are used to getting results for money. I think that what we owe Congress is to get results.

Senator CAMPBELL. Let us talk about that a little bit. Let me ask you, before I turn it over to my colleagues for the first round of questions, in your request for $175 million you mention that there is a 30-percent decrease in the comped public service announcements. I worry a little bit that we might be setting into place a kind of a cash cow, that if we put this in statute that we are going to provide this money every year to pay for ads on television. Would we still get commitments by the private sector for free space, if they know that that money is available where they could simply charge the Federal Government for all the ads that in the past they have comped?

General MCCAFFREY. Mr. Chairman, it is a legitimate fear. There is an analog, I might add, that we can study. N.W. Ayres' advertising campaign for the volunteer army is about the same order of magnitude. It also worked. It also posed exactly the kind of challenge you mentioned.

We are going to have to negotiate and we have reason to believe from listening to the Advertising Council of America and PDFA, we believe we can continue to solicit pro bono support.

But the economics of this industry are changing. The audience is getting fragmented. There are no longer only three TV channels. It is bunches of niche markets. Fortunately, the people who do this for a living still know how to deliver results on selling ideas. We do believe we can achieve what you have asked about, continue to get pro bono support.

Senator CAMPBELL. Should we put that in some kind of report language, that there should be some kind of an in-kind contribution if we are also going to spend money with the various stations?

General MCCAFFREY. I think we would probably welcome that. As to how we negotiate this, we are about to put a contract out for a small amount of money to write a strategy, get a civilian advertising firm to show us how to go about this. I want this done by creative New York minds, not by Government bureaucrats. I will know more about it then.

I am advised, though, that we do not want to have an algorithm that says we give you a buck, you give us a free buck, that there may be ways that we can get some very creative things happening here and still get pro bono time.

Senator CAMPBELL. I appreciate it. Let me now turn to my——

General MCCAFFREY. We have entitled this, Mr. Chairman, I might add as a public-private partnership on getting this message to American children and their parents.

Senator CAMPBELL. I support that. Senator Kohl, do you have some questions?

Senator KOHL. Thank you, Mr. Chairman.

DRUGS IN PRISON

Director McCaffrey, I would like to talk to you a little bit more about drugs in prison. I think the average American would find it, or does find it, incomprehensible that men and women in prison are regularly receiving drugs. How does it happen?

General MCCAFFREY. Of course, Senator, I do not have a good number on it. My guess would be that it depends on the prison system that we are talking about: if it is high security Federal, if it is local jails. But drugs are pervasive in America among those populations. One-half of them test positive for drugs at arrest, one-half the Americans busted, 1 million arrests a year.

They go into a prison system where controls are not absolute, where you have a very low volume commodity that is easy to smuggle, where we have not funded much drug treatment. We have not funded drug testing for the prison population, never mind for the corrections officers who manage this facility.

I am not sure that they are not a lot more drug free in prison than they are out. I think that might be a little bit of an overstatement to suggest that. But I think it is a continuing problem, you are exactly right. We are going to have to get that population and put them in drug treatment and test them, and ensure that they are focused on their own recovery.

Senator KOHL. But are you telling us and are we going to tell the American people that the men and women go into prison with drug problems and if they so wish, we have a system that allows them to continue receiving and using drugs in prison? That we do not have a system which does not permit them to receive drugs?

General MCCAFFREY. I think it depends on the prison system. I have listened very carefully over the last year to those who manage that system. I think there are some splendid men and women, the numbers are surprisingly high, it is almost 500,000 people involved in the American corrections system. But I think it is strictly a function of the population and the kind of facility you are talking about.

The Federal system probably tends to be managed with a little more resources than State and local and, in some cases that may not be completely true either. I mean, some of the—the Cook County correctional system is one of the most sophisticated in the country. So I think it depends on the facility.

Senator KOHL. This is the information that we are now bringing to the American people, but we are responsible for doing something about it. That is why we are here.

General MCCAFFREY. Absolutely.

Senator KOHL. Would you say that there should be enormous vigilance in seeing to it that drugs are not permitted for people in jail?

General MCCAFFREY. Absolutely, Senator. There is no question. I mean, drugs and violence need to be out of that system.

Senator KOHL. Would you say that we who are supposed to be in charge can be accused of not doing our jobs if we do not see at least to that first step, that people incarcerated are not permitted to receive drugs?

General MCCAFFREY. No; I would agree with you. I think we ought to be held accountable for providing a safe, drug-free environment for those who are incarcerated.

Senator KOHL. We need to have, as we have talked about, drug treatment programs for all of those who have drug problems.

General MCCAFFREY. I agree.

Senator KOHL. So that when they return to society they are hopefully—everything has been done to rid them of the habit.

General MCCAFFREY. Absolutely. And Senator, these programs work. I went down to Delaware, which has some enormously progressive rational approaches. It does reduce crime, violence, and welfare costs. Clearly, these in-prison systems that have a follow-on component do work and are cheaper than the alternatives.

Senator KOHL. Is it also correct to say that if we do not do this, then all the money that we are spending to incarcerate them is, to a large extent, just wasted?

General MCCAFFREY. Senator, I think almost any experienced police officer will tell you that if you ask them, that the current approach of just incarcerating people—in a lot of cases, we are talking about 3 days or overnight or 3 years—if there is no drug treatment, if they put them back in the community from whence they came, they are back to addictive behavior within a day or so and back to a life of crime without effective drug treatment.

HIGH-INTENSITY DRUG TRAFFICKING AREAS

Senator KOHL. Thank you. We would like to talk a little bit about the high-intensity drug trafficking areas called the HIDTA's. Would you explain to us what the HIDTA is and what its intended use is?

General MCCAFFREY. The HIDTA's, high-intensity drug trafficking areas, was an approach started in 1990. Director Bennett was

the first to articulate the initial five of them, Houston, Los Angeles, Miami, New York, and the Southwest border. Initially, it was a concept in which we would try and provide limited Federal resources so that the task force concept would allow local, State, and Federal law enforcement and prosecutions to rationally oppose international criminal behavior.

Over the years, through last year, we are now up to 15 designated HIDTA's. They encompass many of the principal urban areas, but now they also include the Gulf Coast HIDTA, the Lake County HIDTA, Midwest Methamphetamines HIDTA. They are in various stages of development, but I would suggest it has been an enormously successful program in which modest amounts of money is invested—it is a $140 million program. For example, when you look at New York, it is $11 million in Federal money that has helped, in the last 4 years, and allowed New York to pull together coherent law enforcement prosecution and focus on drug gangs.

It has made a difference. You can see it on the streets of New York at night. Howard Safir and his people and Federal authorities in concerted action.

So I am very impressed, in general, with what I have seen. Miami, San Diego, the border HIDTA's, very impressive work.

Senator CAMPBELL. Would you yield just for a moment, Senator Kohl? I might tell you that we have had a year of experience in Denver. One was authorized in Denver and it got spread out a little bit, so we ended up opening a satellite in Laramie, WY, and Salt Lake City. It was funded just to a level of $3 million.

I have had some meetings not only with HIDTA officials in Colorado but the local chiefs of police in six of the metropolitan areas. They all think it is a wonderful program. There is a lot of community involvement with it, too, as well as coordinating the different agencies.

Their only concern, of course, is what we funded it for originally might have worked great for one office but it is too small when it gets spread to different satellite offices. But it seems to be one of the programs that we started out, that is having great success.

General MCCAFFREY. I will try and give you a more coherent review of these programs, Senator, for the 1999 budget, and to show you where they might usefully grow. You are right, we need a more coherent way of managing this program.

In the reauthorization act, I put together an office to manage the HIDTA program. The 1988 law suggests that I designate these programs. The last five were issued to me by congressional House appropriations action, in effect. I think we are going to have to be careful that in the coming years they are not added topsy-turvy and there is some sense of what we are doing, and an accountability for the money and what we are accomplishing.

Senator KOHL. Just to follow on that point, Director, as you point out right now the HIDTA's are designated in various ways. Congress apparently has some responsibility for designating HIDTA's. ONDCP designates HIDTA. Do you not think we ought to have a clearer method of determining how we are going to spend this precious money on HIDTA's?

General MCCAFFREY. Without question. I mean, the law is unequivocal. I am supposed to designate the HIDTA's and the appro-

priations action last year could not have taken effect unless I legally designated the counties that would receive the money. We tried to do it in the most sensible, rational fashion we could. I think it needs a review. I would suggest—I am going to task the National Defense Intelligence Center to look at the demographics, the smuggling rates, the use rates, the growing production rates domestically of marijuana, methamphetamines, and come up with a coherent way to move ahead.

I think if you ask me to do it, which you have done in the law, and have me report to Congress, we will get a more rational way of approaching this problem.

ONDCP'S AD CAMPAIGN

Senator KOHL. A little bit more on this media campaign that you would like us to commence. It is, as you know, $175 million and that is two-thirds of the proposed spending increase for drug abuse prevention programs in fiscal year 1998 and some people think that the media campaign is a great idea, some people think that it is not a great idea. No one knows whether or not it will be successful.

My question to you, Director McCaffrey, do you not think it would be advisable for us to take an area or a State or a region and see whether or not the program is effective or can be effective on more of a pilot basis than deciding at the outset that we are going to do it in a national way and spend all that money?

General MCCAFFREY. Senator, I share your caution in going into this. To put it in context, I think it is 1 percent of the counterdrug budget. I think it addresses a problem of enormous national emergency. Children drug use rates are skyrocketing.

The most important chart I put up there was eighth grade rates of use. Here are the kids entering the most vulnerable period of their central nervous system's development, social development, educational possibility—and their drug use rates have tripled in 5 years.

So I would suggest that we do know what we are doing on this program and that absorbing $175 million times two is something that this creative industry can do. We can be held accountable. We can develop performance measures. And we can make it work.

There is some historical experience here. So even though I share your dedication to not throw money at a process, I think we can carry this off and in 2 years show you results starting to happen.

I would also be concerned, and you mentioned this earlier along with the chairman, that we not start with a modest program. We analyzed it. We think $175 million will achieve our purpose and that we commit ourselves to 5 years of evaluation that shows it is working. I think if we went in with a partial program we may kill the pro bono aspect of it while not achieving our purpose.

The final thing I would suggest is that we look at gateway behavior. To reach a 12-year-old kid—this is going to be hard work. This is not heroin addicts at 26 we are after. These are 14- to 16-year-old kids smoking pot. That is what we have to stop. A 12-year-old smoking marijuana is 79 times more likely to be addicted in life than one who does not smoke.

There are just phenomenal statistical correlations. A kid who is smoking is about sevenfold more likely to be addicted in life than a kid who is not at age 12. And binge drinking has similar rates of behavior. So we really, I think, have to get going with a sense of energy on this or we are going to lose another generation.

Senator KOHL. I would just make one final comment and then pass it back to the chairman. I do not disagree with anything you are saying, but yet we are talking about very scarce resources. And here we are talking this morning about not having enough money to fund a very, very effective program that you have described, the HIDTA's. We are talking about not having, apparently, enough money to fund an essential program which is drug treatment in prisons.

So it is a question of deciding how we are going to allocate our money. Intelligent people can have a different opinion.

General MCCAFFREY. I agree.

Senator KOHL. It seems to me, on the basis of what you have talked about this morning, with respect to how important it is that we see to it that prisoners are treated who have problems, how essential it is, and how important it is to designate, in view of their success, more HIDTA's that we need to have maybe a discussion about how we are going to fund these things, as well as a national media program.

General MCCAFFREY. I agree, although, Senator, I would also suggest that from my own view of it, the smartest money we are going to spend is on drug prevention. By the time you end up with an addicted 21-year-old male in prison, addicted to cocaine or heroin or methamphetamines, we have a problem. At that point, you have a chronic relapsing disorder, a spiritually and physically and mentally damaged human being. You have them in jail at $23,000 a year. It is a $17 billion program to run that system.

So I would suggest this investment up front is going to pay off as a capital investment cost in our future.

Senator KOHL. No disagreement about the need to work with young people but we have, for example, a DARE program which is a direct program of getting at potential drug abuse problems with respect to young people in school. And that also is an underfunded program and a very successful one.

So again, I think that reasonable people can debate how we spend this money most effectively on young people, on prevention.

Thank you, Mr. Chairman.

Senator CAMPBELL. One thing I think all of us agree on is it is a lot cheaper, when you are talking about the expenditure of money, to do it up front in prevention than it is to do it afterward at $23,000 a year per person, perhaps for the rest of their life.

But clearly, for that much money, we probably have to have some method of measuring and monitoring the results so we know we are getting some results with it, so we do not just keep putting funds into that area. Because we know that some of these other programs like DARE have had huge successes.

With that, let me turn to Senator Faircloth and ask for a few questions.

MARIJUANA USE

Senator FAIRCLOTH. Thank you, Mr. Chairman.

General, why do you think the use of marijuana has skyrocketed among young people in the last 4 years? What is the reason?

General MCCAFFREY. Senator, I have listened to a lot of very smart folks. Dr. Lloyd Johnson at the University of Michigan and his colleagues have been at this since the 1960's, thank God, and they have got some consistent sets of data that they have used.

It probably is our consensus viewpoint that America was outraged in the 1970's at drug abuse. Who knows, 25 million Americans regularly using drugs, one-third of the armed forces, a catastrophic impact on our society and they were fed up with it. So 4,000 community coalitions sprang up. News media attention was enormous. Parents got involved. Drug use went down. It worked. We drove drug abuse in America down by one-half.

Now having said that, along came a new generation. We had solved the problem. News media attention plummeted and dropped off. And then finally, I would suggest, a new generation of parents, of schoolteachers, came along in America, many of whom had been exposed to drugs. Somewhere between 50 and 72 million Americans have used illegal drugs. It depends on your age group, your socioeconomic background. But if you are white, as I remember, and 36 to 45, the chances are 62 percent you have used an illegal drug.

So that age group now is trying to——

Senator FAIRCLOTH. Say that again, repeat that?

General MCCAFFREY. If you were, I think it was, 36 to 45, white, the chances are 62 percent you have used an illegal drug sometime during your life.

So now that generation is running America and they are the homeroom teachers, the police officers, young business leaders. They are trying to sort out: "What do I tell my children? My employees? My Army company?" And I think what we are suggesting we need to do is to say: "Tell them the same thing you would about drunk driving." That in the 1960's one-half the people on a Saturday night were inebriated, driving around our highways, slaughtering the innocents. Mothers Against Drunk Driving got working on that issue.

"Tell them what you would about having smoked cigarettes in your twenties and finally stopped, as one-half of all Americans who smoke have done. Marijuana, crack cocaine, heroin almost wrecked America."

So now we are trying to get to that generation and say it is OK, it is not hypocrisy to tell your employees and your children and your school do not use drugs, it did not work. I think that is our challenge.

Senator FAIRCLOTH. The California law, proposition 215, fiasco, whatever it turns out to be, but as I understand it there is nothing to prevent children just walking in and, from these so-called buyer's clubs, and purchasing marijuana. I understand that under the prescription rules they can stand on the street corner and smoke it and say they were verbally recommended to do so by their doctor; is that correct?

General MCCAFFREY. By their health care provider, which could be an aroma therapist.

Senator FAIRCLOTH. In other words, it is totally legalized in California?

General MCCAFFREY. Well, Senator, we have enormous difficulties on this whole issue. We objected to the object behind propositions 200, 215. Our viewpoint was fully supported by the American Medical Association, the American Cancer Society, the American Ophthalmological Society, by all serious physicians' organizations. We think that the National Institute of Health and the Food and Drug Administration ought to be the place that American medicines are judged safe and effective, through a scientific process.

And so propositions 215, 200—we think were a mistake. Now they are out there and we have a court case, as you are aware, in Federal district courts where the judge has given us a 42-page opinion. We are trying to sort out what that means in terms of U.S. policy. But I think you are quite correct to be concerned.

And the thing I would be most concerned about is that we protect this process that kept thalidomide and laetrile off the market, and that says it is not a political or ideological argument on what is a medicine, it is a scientific argument. I think that is the problem that we have with proposition 215.

Senator FAIRCLOTH. Well, the effect in California under this proposition 215, it has the effect, it has legalized marijuana totally in California. When your caregiver, your whoever, that could be most anybody, recommends you smoke it or you use it. You can buy it on most any street corner at a legal so-called buyer's market.

It concerns me, putting money into TV ads when you have effectively legalized it. Would you run ads in California saying that you should not use it when the State has said it is fine to do, you can buy it here, there and here? And all you have to do is say your caregiver recommended you smoke it.

It would appear to me that that is pouring money down a rathole and going two different ways on the same thing.

General MCCAFFREY. Senator, I would agree there is an Alice in Wonderland quality to all of this discussion. However, having said that, I sort of remind all of us that 80 percent of our children have never touched an illegal drug, period; that most Americans, including California, do not use illegal drugs. Twelve million Americans out of 265 million do.

The problem is, by and large, a minority of the population that we do not want to see double and triple in size. So I do not believe we should give up on this effort. There is tremendous support throughout California and Arizona to confront this issue.

This is still a medical issue that we are concerned about because we want American doctors to write prescriptions for medicine and to be held accountable for their own behavior. We do not want another system to exist in parallel, in Arizona, for heroin, LSD, marijuana, et cetera.

As you know, Senator, Arizona's legislature, thank God, put this back in a better perspective and they have held in abeyance some aspects of this law pending FDA approval of these schedule I sub-

stances as medicine. So I think we are moving in the right direction in a really prudent manner.

Senator FAIRCLOTH. I have a bill, S. 40, and it would prevent doctors from getting around the Federal law with verbal recommendations. And if they were found giving these so-called verbal recommendations, they would be punished by not being allowed to participate in the entire Medicare-Medicaid system. Would you support that?

General MCCAFFREY. Senator, the Attorney General and her associates are studying the Federal district court's opinion. They are going to have to sort this one out.

I think we all appreciate your attention to this serious problem and I look forward to working with you on it. The only challenge is that your bill, again, does not confront the free speech aspects of that Federal District Court ruling.

Senator FAIRCLOTH. Tell me that again.

General MCCAFFREY. In other words, the Federal district court—and again, I want to let the Attorney General speak to the enforcement and legal aspects of this—but the court decision was based on free speech, not medicine, not drugs. And that is where the difficulty has been.

Senator FAIRCLOTH. In other words, the doctor can just—why write prescriptions then? Just sort of go verbally on everything.

General MCCAFFREY. You are raising very serious questions. That whole proposition 215 was unsettling.

I think the other thing is many of us believe that medicine is best run as a State responsibility. I think all of us are nervous about intruding too much in that. At the same time, we believe that the Federal Government should define this schedule I through V drug structure. That makes sense, to guarantee all of us nationally sensible medical medications.

Senator, I look forward to working with you on it, but I want to let the Attorney General sort out what we should do about this district court ruling first.

EXTRADITIONS

Senator FAIRCLOTH. Let me ask you a question. There is no question the law enforcement people are well aware of the drug lords, they are easily identified. They live right across the border into Mexico. There has been news articles, pictures of their homes. I mean, they are clearly identified and identifiable.

Of course, the President has been working with negotiating with Mexico, but what has he done and what did he do to work to extradite with the Mexican Government, extradite these drug lords? It looks like we—did the President pursue anything to extradite them and bring them to this country for trial? Was that discussed?

General MCCAFFREY. Senator, the trip—and by the way, I am going to hopefully in the coming 2 weeks offer, in both the Senate and the House, an explicit debriefing on what happened on those trips, not only Mexico but also Central America and the Caribbean.

We have a broad array of concrete partnership programs in the drug area. They are in the Department of Justice, Department of Health and Human Services, Department of Defense, our intel-

ligence services. They involve binational border task forces. They involve extradition.

Many of us believe that we have changed a 200-year mindset in a cooperative manner in which Mexico and the United States have decided to work together in the future, not only economically and politically but also on the drug issue. We did get 16 extradited out of Mexico last year, including two—for the first time in Mexican history—who were Mexican nationals. One of the principal four drug lords was expelled from the country, Juan Garcia Abrego, and is now serving a tremendous sentence here in the United States. There have been six more extraditions this year. I think in the future you will see more of them.

But again, extradition must be in accordance with each nation's sovereign law, and there has been a considerable amount of unbalanced speculation in the press on this. What we do is the Attorney General puts together a packet by name on an alleged criminal, sends it to Mexico, and works that name. And then if they do not have charges outstanding, then we can extradite them.

We are also about to change the process. We have discussed with the Mexican attorney general that we are going to explore and hopefully we will rapidly pass a new cooperative agreement in which we can extradite to stand trial someone who also has charges pending against them in the Mexican system. We have a similar agreement with several nations. So we will not let the evidence and the witnesses grow cold.

If Mexico is going to charge a perpetrator, then when they try them, we will also extradite, try them, and return them for Mexican imprisonment. And then presumably, when they are freed from that sentence, they would come to us.

I am very optimistic we are going to work in partnership on this issue.

Senator FAIRCLOTH. Back to the bill, S. 40, that I have introduced, your answer was not very clear as to whether you would support it or not. The freedom of speech, or whatever that involves, is giving verbal descriptions. Would you support revoking the privilege of a doctor to participate in the Medicare-Medicaid governmental medical programs if they were giving these so-called recommendations without written prescriptions?

General MCCAFFREY. Senator, I think I should be unclear in my answer to you.

Senator FAIRCLOTH. Well, you have been.

General MCCAFFREY. I think the Attorney General needs to study the 42-page opinion of this Federal district court judge. I welcome your intervention in this process. The form in which you might consider legislation should be held pending our analysis of the legal questions involved. I think that is the fairest answer to you, sir, that I can give.

Senator FAIRCLOTH. Thank you, Mr. Chairman.

Senator CAMPBELL. I had about 25 or 30 questions I wanted to ask, but I did tell you I would get you out of here by noon for your appointment, and I have one, too. I am going to skip around a little bit, submit a bunch of questions to you that I would request that you give us something in writing on.

PREPARED STATEMENT

Senator FAIRCLOTH. Mr. Chairman, I had an opening statement that I would like to submit for the record.

Senator CAMPBELL. Without objection, that will be included in the record.

[The statement follows:]

PREPARED STATEMENT OF SENATOR FAIRCLOTH

Mr. Chairman, I want to thank you for holding this important hearing to review the budget of the Office of National Drug Control Policy. I also want to welcome our distinguished witness, General Barry McCaffrey.

Mr. Chairman, we all know how illegal drugs are devastating this country. Our inner cities have become war zones, torn apart by drugs and crime. And not just the inner cities. Drugs reach into every community, from Washington, D.C. to Clinton, North Carolina. What parent doesn't worry about the dangers of raising children in this drug-invested culture?

I am pleased to have the opportunity to hear a progress report from General McCaffrey on this Administration's war on drugs. Quite frankly, I am not sure we are winning.

Drug use is up since President Clinton took office, particularly marijuana use. It seems that many of the lessons that were learned in the 1960's and 1970's about the dangers of drugs are being un-learned by today's youth.

I am particularly troubled by developments in California and elsewhere that legalize the use of marijuana. Following passage of California's Proposition 215 in last November's elections, so-called "buyers clubs" are selling marijuana to anyone who walks in the door, regardless of age.

One recent article in the Washington Post noted that these buyers clubs do nothing to check whether or not their customers have a "medical" need at all. And the language of Prop 215 is so broad that "medical need" could be almost anything, even as trivial as a headache.

To quote from the language of Prop 215, this statute which supposedly only legalizes marijuana for "medical purposes" also applies to: ". . . migraine [headaches], or any other illness for which marijuana provides relief."

An initiative that was presented to the voters as helping relieve the pain and suffering of the terminally ill is quickly turning San Francisco, where many of these buyers clubs are located, into the next Amsterdam.

I have introduced legislation to stop this dangerous trend towards legalization of marijuana through so-called "medical marijuana" initiatives.

The Drug Use Prevention Act, Senate Bill 40, would close a dangerous loophole created by Prop 215.

Doctors are already prohibited by federal law from writing a prescription for marijuana, but under Prop 215, patients who get a verbal recommendation from their doctor can obtain marijuana.

If it is illegal under federal law for doctors to prescribe marijuana, it should be illegal for doctors to "recommend" marijuana as well. A doctor should not be able to avoid federal drugs laws by putting the prescription pad in his pocket and, perhaps with a wink and a nod, giving a "verbal" recommendation to smoke pot.

My bill makes it clear that these kinds of recommendations, conducted by doctors in the course of their official duties, are also prohibited.

Doctors who violate federal drug laws by making marijuana available to their patients would be denied access to the Medicare reimbursement system, and have their federal license to prescribe medicine revoked.

These are the same kinds of punishments that already exist for doctors who commit fraud on the Medicare system.

General McCaffrey, I know that you have spoken out about the dangers of marijuana. In fact, you have stated that there is currently no accepted medical use for marijuana, and that marijuana use is highly correlated with future use of addictive drugs like heroin and cocaine.

I want to be sure that yours is not a lonely voice in the wilderness within this Administration. I hope to hear from you that this Administration will actively enforce federal law banning the use of marijuana, and I hope to hear that this Administration is focusing resources on this problem.

I look forward to your testimony. Thank you.

METHAMPHETAMINE LABS

Senator CAMPBELL. Let me ask you first about the methamphetamine labs. As I understand it, they are very easy to set up, they are very mobile. They only cost maybe $100. There seems to be a huge increase nationally of seized labs. Within your ability to talk publicly about it, can you give the committee some information on how you intend to fight this very mobile kind of drug use?

General MCCAFFREY. Senator, we have done a considerable amount of work. The Attorney General and I signed a joint methamphetamine strategy about a year ago, which we are now reviewing. As you know, the U.S. Congress has passed legislation in this area, thankfully, so we have now defined the precursor chemicals, penalties, and the kinds of drugs that are prohibited.

We have had a regional methamphetamine conference out in San Francisco, in which we learned an awful lot from the six western States, in particular California and from California narcotics officers. This month, May 20 and 21, we will go to Omaha and I am going to host a national methamphetamine conference on prevention and treatment, law enforcement, environmental damage, and we will put out a report on that outcome.

What is clear is that this is potentially the worst drug threat to ever face America. California, if I remember the numbers, busted more than 600 cooking operations last year. They have been very aggressive. It used to be a southern California biker-gang kind of drug. It is now the principal drug menace to America in Arizona, in Idaho, in southern California and San Francisco, in Hawaii. It has become the major drug threat in parts of the rural Midwest, Missouri, Kansas. It is simply astonishing.

Its impact on human life is literally disgusting. It is ferociously and rapidly addictive. Crack cocaine is a 15-second acute high, powdered cocaine is 10 minutes, methamphetamine is 6 to 15 hours and people are staying awake for 5 to 15 days straight while their personality unravels, tweaking behavior.

It is also ferociously dangerous to handle and it is being cooked by people who are incompetent in handling chemical reactions. So we are saying, I do not know if this number is correct, that one out of six of these operations has a fire or explosion in a given year. Now they are cooking it not in the woods, far from human habitation, but in hotel rooms with hundreds of other people in the same hotel. And so the maid may encounter contamination of a lethality that approaches chemical warfare threats, hydriotic acid, red phosphorus, chemical reactions that if they go wrong can almost instantaneously kill you through asphyxiation, poisoning, or fire.

They are pouring this stuff down sinks and in wells and in rivers and devastating the landscape. Some of this stuff stays active for 30 years, red phosphorus.

It is hard to overstate the potential menace of all of this. We need a prevention program. We have legislation, we have a strategy and we are now seeking the involvement of local and State and Federal authorities in a task force approach.

Senator CAMPBELL. You mentioned it was the drug and lab of choice by the biker gangs. Heck, I already knew that. Has it been growing with inner-city gangs, too, using these labs?

General MCCAFFREY. Well, it is sort of odd, it is growing in an unpredictable manner. It is not in Washington, DC, New York, Miami. It is in the rural Midwest. It is now Caucasian males who are doing the cooking. It is very little used by minority populations so far, thank God. It is the first drug in America that has more women than men addicted in several of these States.

That and crack cocaine, as I look at the numbers, are the only two things in humanity's history that can shatter a mother's love for her own children. And so, some people are getting involved in this because it is a weight loss drug, and then they are addicted. It is of tremendous danger to us.

CERTIFICATION

Senator CAMPBELL. Thank you. Let me skip to Mexico's certification, if I could.

I have been concerned for some time about Mexico's decision not to let American DEA agents carry arms in Mexico. I would like to know what ongoing discussions there have been with Mexico so that we can be assured that our agents in Mexico are going to have some protection.

General MCCAFFREY. Mr. Chairman, I would first of all start off by saying that Mr. Constantine, Mr. Freeh, Mr. Kelly in Treasury, those three principal Federal law enforcement agencies and I are in agreement. We, without question—and the Mexicans have signed onto this same point with us in an alliance between Presidents Zedillo and Clinton—we will protect our law enforcement officers. That is a principle that neither side will deviate from.

I might add, it is not just in Mexico. The violence on our side of the border, the threat to our law enforcement officers, particularly in the four border States, is simply incredible. We had, as you know, this last year 116 police officers murdered in the line of duty, hundreds more shot or injured, 23,000 assaults, and a lot of that was driven by drug behavior.

In Mexico we have a considerable cooperative binational task force law enforcement effort. We are very concerned about the safety of both Mexican and United States law enforcement officers. Two hundred or more Mexican officers were murdered last year, a considerable number in the border regions. Of course, as we are aware of only too painfully, that is driven by $49 billion a year of United States drug purchases and, in many cases, by United States arms smuggling south into Mexico. That is how their police officers are being killed. So both sides are persuaded: we are going to protect our policemen.

Now having said that, another principle that is in this counterdrug Alliance that the two presidents signed is an absolute respect for the sovereignty of the two nations. Only the police, prosecutors, and judges of the Nation will be allowed any authority on their own air, land, and sea space. I think, Mr. Chairman, that has been the problem.

It also, I might add, involves some difficulty in talking about it in public. I would be glad to respond to your questions in more de-

tail, but I think that is where we are. We are going to protect Mexican and United States police officers. We are going to ensure that no United States law enforcement officer enforces laws in Mexico. That is the other part of the sensitivity.

Senator CAMPBELL. I understand that. You know, I used to go to Mexico all the time years ago, 25 or 30 years ago, went myself a lot of times and never felt at risk, never felt endangered, got along just great down there. I have not been there for years and years. Then last winter I went to Tijuana with some Mexican friends and I want to tell you, if I had not had them with me, I would have felt in danger the entire time I was in that town, as an individual American being down there. Times have changed, that is for sure.

Well, I did promise to try to wind this up at noon. I see Senator Shelby has shown up. I am going to submit the rest of my questions for you in writing, if you could answer them, so I can give Senator Shelby some time to ask you his questions.

General MCCAFFREY. Yes, Mr. Chairman; I would be glad to.

Senator SHELBY. Mr. Chairman, I will try to be as quick as I can. I do want to say hello to General McCaffrey. I worked with him 2 years, when he was named drug czar, and Senator Kerry and I tried to help him everywhere we could on the appropriations process, as I know you will.

I am sorry that I am late, but we have been involved in an intelligence briefing.

General, you lay out five goals, as I understand it, in your national drug control strategy and support these goals with objectives to provide for what you call measurable progress, good friends, you know.

I am pleased with this approach, I believe, because for the first time we will be able to have some kind of benchmark of what we are trying to accomplish. In the past, we talked a lot about doing things but did we know how to get there? Perhaps this is a mountain, at least a goal.

The goals and many of the objectives that you lay out to me appear to focus on the key areas, education, interdiction, supply and demand, reduction and treatment and I think that is good. But I am puzzled somewhat, and you may have already talked about it before I got here, by one particular objective that you cite in your strategy, General.

DRUG LEGALIZATION

If you would look at goal one, objective eight, and it reads support and disseminate scientific research and data on the consequences of legalizing drugs. On page four of your strategy report from February 1997, you state that the rationale for this objective is "Drug policy must be based on science, not ideology. The American people must understand that regulating the sale and use of dangerous drugs makes sense from a public health perspective."

Why or how, General, is that an objective in encouraging America's young people to reject illegal drugs? Is it part and parcel of an effort to combat efforts to legalize drugs like marijuana? Because I note in your testimony, on page 12, that combating efforts to legalize marijuana is important for all of us.

How does this objective help achieve that and what does it mean that the "medical scientific process" is the only system which can determine drugs as safe and effective for therapeutic uses? Are you leaving the back door open on legalizing marijuana when you say this? I do not know. I would like to hear your comment?

General MCCAFFREY. Senator, without overstating the case, I think we are facing a very well organized, very cunning, very well funded national legalization of drugs effort in this country.

Senator SHELBY. Absolutely, I think you are right.

General MCCAFFREY. I think it has been done by people who recognize that if you read the polls, 85 percent of the American people are not going to accept the legalization of these drugs. So there has been an attempt to make it palatable and politically acceptable, a tricky manner.

Senator SHELBY. Make it easier to swallow?

General MCCAFFREY. Absolutely. So I think personally, although I think there are a lot of sincere people involved in it, that propositions 200, 215 fall into this category. I have started to try and focus, in a scientific way, on the benefits of hemp as a product to save America, to try and understand from an agricultural and economic viewpoint whether or not this is the case.

And that is really what is meant by that language, to not get flim-flammed by public relations ploys, but instead to fall back on what America does best, which is to rationally look at what is being offered in the democratic public debate.

Senator SHELBY. Rational is a good word here, is it not?

General MCCAFFREY. Yes, sir; I think so.

Senator SHELBY. If the FDA came out tomorrow or even later this afternoon and said marijuana is safe for more general use, would you support it?

General MCCAFFREY. Let me say unequivocally, as someone who has spent literally years in U.S. military hospitals, and I tell a lot of medical groups this, I have spent a lot more time as a patient than most of the doctors I deal with. One of the reasons we have such enormous confidence in the American medical system is because it is based on science.

The AMA has been supportive of national drug policy throughout this whole argument. Now as I look at the people in the National Institutes of Health, Dr. Harold Varmus, a reasonably astute lad with a Nobel Prize in science, I think it is clear that he will approach this from a medical/scientific viewpoint.

In the 1980's there were hundreds of investigations about smoked marijuana, 400-plus compounds. Out of that they determined that THC, one of the principal active components, might have medical benefit. So it was synthetically produced since 1985. It has been available for American physicians to use. It is not used a lot because in 1997 there are far too many effective therapeutic approaches for nausea from chemotherapy, for glaucoma, than to use THC. I think that we owe a rigorous evaluation of smoked marijuana. If there are other components that might be used or modified and offered to American medicine, so be it.

Now there is no evidence that we have yet seen, that I am aware of, that suggests that smoking a carcinogenic psychoactive compound has benefit. Cocaine does. Cocaine is used for eye sur-

gery. Methamphetamines are used for certain psychiatric problems and weight control. Again, I think we need a rational approach to this and we have to question where it belongs in the NIH and FDA.

Senator SHELBY. We all realize that substances are controlled for good reasons. To use a drug or any kind of drugs therapeutically, you know through the process of healing or medicine, is one thing. To use drugs for leisure, at the will of so-and-so, that is a totally different game; is it not, General?

General MCCAFFREY. Yes.

Senator SHELBY. And in a sense, is that not what we are talking about?

General MCCAFFREY. I think what we are doing is that we have allowed this to become a political debate by drug legalizers instead of trusting to American science, the NIH, the FDA, and American doctors. They deserve our trust.

Senator SHELBY. General, do you believe that the framework that you have set out here will allow you to adequately judge, within some reasonable amount of time, what is working and what is not working when resources need to be shifted to where they might be more effective, you know, one way or another? And how hopeful are you on this?

PERFORMANCE MEASURES

General MCCAFFREY. Senator, I think we have hard work to do on the performance measures of effectiveness. It has never been done. Frank Raines is committed to it. The President is committed to it. After some very blunt debate the executive branch has signed up for it. So our purpose is to develop such a system to be held accountable for achieving results.

I do believe we are going to have to go through a growth period on this. I think we are going to write a plan, I am going to have it to you prior to October 1, that says: ''Here is how we intend to measure targets and outcomes.'' Then we are going to start measuring.

Senator SHELBY. This is a big departure from what we have done in the past?

General MCCAFFREY. Yes, sir.

Senator SHELBY. We have talked about things but we have not really gotten down to the lowest denominator to measure them, have we?

General MCCAFFREY. No; we have not.

Senator SHELBY. Not in the way you are talking about?

General MCCAFFREY. No; now we may have some mistakes in it the first year. We may find out we are measuring the wrong thing. But at some point, you are quite correct, if a program does not work you need to throttle it back. If it is working, we need to reinforce success. That is our purpose.

Senator SHELBY. When you do measure progress, and I hope you will have a heck of a lot of progress, such as a decrease in the previous month's use for illicit drug use such as cocaine or a decline in drug-related homicides, I think it is important to have a standard that we measure this by. And I think that is what you are trying to set out, is it not, General?

General MCCAFFREY. It is, and we have some good examples in the New York City Police Department where justice has been done. You have to make sure you measure the right thing. NYPD does not measure arrest or the kilograms of drugs seized. It does measure crimes that are indicative of the quality of life in the city.

So I think that is our challenge. Dr. John Carnevale, and his 26 work groups, will figure out what our purpose is, what we are trying to achieve as an outcome, and then how do we measure that outcome.

Senator SHELBY. And what time period, the frame of time periods is important to measure, too; is it not?

General MCCAFFREY. I think it is.

Senator SHELBY. Are we measuring it against where we are today, or what happened in the 1960's or 1970's or what? Or both?

General MCCAFFREY. I think we will get a baseline and, in some cases, we will have data that may go back to the 1960's. In some cases it may be the first time we started tracking that information. So the most important point would be the baseline from where we start, because I think all of us are convinced that current rates of drug use and its consequences are unacceptable and need to come down. They are still historically at an unacceptable level.

Senator SHELBY. But whatever you measure and the results that you come up with, they have got to mean something. They have got to be meaningful because we have had a lot of press releases in the past, and you have seen it yourself, from not just this administration but others, too, said gosh, we are winning the war on drugs, we are doing this. When we knew basically we were losing the war on drugs in a lot of areas. Maybe making progress in some areas, wide open in others.

General MCCAFFREY. Your point is well taken. At the same time, though, it always makes me uncomfortable. One of the reasons I have sidestepped the metaphor of a war on drugs is that if it were a war, we have not been losing it. The U.S. Armed Forces, the New York Police Department, college faculties, American business have reduced drug use enormously in the last 15 years, thank God.

It is unacceptable where we are, and oh, by the way, our children are starting to use drugs again. So we should not be satisfied, but there have been results from this effort.

Senator SHELBY. General, I was struck, and you showed this ad—and I forgot what it was, but it was a child last year, dealing with medicine, whatever it was. You would know it better than I would, you know, do not play with matches, whatever it is, and do not do this. And drugs, what do you say? A big question. It was an effective ad.

General MCCAFFREY. It was very powerful. That was the Partnership for a Drug-Free America.

Senator SHELBY. I remember when you came to the committee and you showed that, and I said whew, it was good.

General MCCAFFREY. Very, very painful.

Senator SHELBY. Yes; that is what I thought. Are you still using something like that?

General MCCAFFREY. We showed that again.

Senator SHELBY. Oh, you showed it earlier?

General MCCAFFREY. Yes.

Senator SHELBY. I was gone, as the chairman pointed out.

General MCCAFFREY. And I have a Partnership for Drug-Free America representative here. They and the Advertising Council of America will be the source of wisdom of historical experience on this campaign.

Senator SHELBY. Mr. Chairman, thank you for your indulgence.

Senator CAMPBELL. Thank you, General. We got you out of here pretty much on time. I am sorry you are going to be a little bit late for your appointment, but I am sure I can speak for the rest of the committee in telling you we are looking forward to working with you and hopefully we will look forward to a day when there is a big reduction in the drug use in this country. Thank you for appearing.

General MCCAFFREY. Thank you, Mr. Chairman.

SUBMITTED QUESTIONS

Senator CAMPBELL. We have additional questions that will be submitted in writing to be answered for inclusion in the record.

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

QUESTIONS SUBMITTED BY SENATOR CAMPBELL

DRUG PREVENTION PROGRAMS

Question 1. I would like to take a moment to talk about youth drug prevention programs, for I am concerned with recent reports saying that one of the most widespread programs, D.A.R.E., is not working as well as we originally thought. Can you tell us why? How can we make improvements to the program and what would you recommend?

Answer. Dare is a valuable means of teaching drug prevention while strengthening linkages between the police and the community. It is benefiting some 25 million U.S. children as well as 8 million youngsters in 42 other countries. A growing body of prevention research indicates that "refusal-skills" training is among the most effective drug-prevention approaches. D.A.R.E. incorporates this approach into its lessons, but we must be realistic about our expectations regarding D.A.R.E. or any other short-term prevention program. There is no one program that fits all children and all situations. Characteristics of effective programs and models for successful prevention may vary depending on developmental stages, target population, and whether the program is delivered in conjunction with other important elements such as policy and systemic change, family interventions, community anti-drug coalitions, and media efforts. D.A.R.E. should be used in conjunction with other comprehensive approaches to show positive results. All children should receive drug education and prevention every year in a developmentally appropriate program that has been scientifically proven to work.

Question 2A. I am concerned that if we are making the effort to keep our children from being influenced by drugs that we make a difference. Although I believe that not all programs will work in all areas, I do feel that there have got to be some common denominators which can guide the outcome of those efforts, being careful not to dictate from Washington. Along those lines, Mr. McCaffrey, are there currently any national standards or basic steps that all youth prevention programs must incorporate?

Answer. Yes, there are national guidelines based on twenty years of science-based research that provide the "principles" to be applied in creating successful prevention programs. The National Institute on Drug Abuse (NIDA) has recently published a research-based guide to prevention programming, which reaffirms the findings of SAMHSA's congressionally mandated National Structured Evaluation of prevention programs. These science-based guidance documents are being disseminated to communities around the country.

Question 2B. If there are national benchmarks, who establishes and evaluates them?

Answer. HHS and the National Institutes of Health establish national benchmarks and have engaged in a rigorous research program to determine what really works. Additionally, ONDCP has established the development and implementation of a set of principles upon which prevention programming can be based as a major objective under its first goal of the *National Drug Control Strategy,* to educate and enable America's youth to reject illegal drugs as well as alcohol and tobacco.

Question 2C. If there are not national benchmarks, what would it take to establish them?

Answer. There are national benchmarks as discussed above.

Question 3A. Positive outcomes are being seen in those programs, which increase a child's ability to fight peer pressure, help them to understand that they are not the only ones saying any to drugs [sic], teach them how to react to situations, and reinforcing these messages in all aspects of a child's life, through family, peers and community. These are programs like the Adolescent Alcohol Prevention Trial, the Life Skills Training Program, and Project Star or I-Star. To incorporate these types of activities into the current youth prevention programs, would it take a wholesale change in the way we are currently running the prevention programs, or would we just easily eliminate those that are not working?

Answer. The programs listed are among these identified and highlighted by NIDA as effective in the recent research-based guide. What is needed is a more disciplined application of research results at the state and community level. As the research has shown, most individual programs need to be augmented with activities for the parents, peers, community and media as indicated. Some communities have very good resiliency characteristics and therefore do not need certain strategies. The importance of doing a risk assessment allows for tailoring of prevention programs at the delivery level. Some programs may in fact need to be eliminated if they are increasing risk factors in any manner. The vast majority of programs need assistance in the appropriate implementation of models, as prescribed in the empirical evidence.

Question 3B. How hard would it be for us to incorporate these recommendations?

Answer. Improving the effectiveness of prevention programs, both public and private, will require a commitment from local school districts, multiple agencies, community service providers and researchers. I believe the prevention field would welcome this challenge. Accountability will provide stable funding for the necessary drug prevention programs. The country will need them as we will see the largest population ever of young people age 12–18 in the year 2006. Currently there are 68 million under age 18. The prevention field has been employing rigorous evaluation and must continue to do so.

Question 4. Mr. McCaffrey, I know that drugs are subject to fads just like anything else. Given this changing environment, how does ONDCP respond to these constantly changing trends?

Answer. ONDCP keeps apprised of drug fads through its twice-yearly Pulse Check survey, which is a series of reports on drug use in selected cities across the nation. The Pulse Check provides valuable descriptions of the drug scene that informs researchers and policy makers in a timely manner. Additionally, the Pulse Check helps to predict needed interventions for both prevention and treatment. Needs assessments are mandated in the Substance Abuse Prevention and Treatment Block Grants (SAPT) and are shared with ONDCP. Another source is the Six State Consortium Project which shows trends at the state and substate levels for prevention planning purposes.

Question 5. In your submitted testimony, you highlighted a chart in Appendix A, Figure A–3, titled "Hemispheric Cocaine Seizures are Holding Steady." Can you tell us why there was such a dramatic drop in cocaine available for use between 1992 and 1993, whereas all other noted areas remained relatively stable?

Answer. The amount of cocaine available is proportional to net coca cultivation in the source countries (Bolivia, Colombia and Peru). Between 1992 and 1993, a redistribution of coca growing areas within Peru reduced net Peruvian cultivation 16 percent (129,100 to 108,800 hectares), consequently reducing potential coca leaf production in Peru by 28 percent (219,200 to 157,600 metric tons). During the same time frame, potential coca leaf production increased five percent in Bolivia (80,300 to 84,400 metric tons) and seven percent in Colombia (29,600 to 31,700 metric tons). However, because Peru accounted for 65 percent of all coca leaf produced, these increases were not sufficient to offset the sharp decrease in Peruvian production. The net result was a decrease in worldwide potential coca leaf production by over 16 percent (329,100 to 273,700 metric tons), which, in turn, resulted in a 14 percent net reduction in the amount of cocaine potentially available (835 to 715 metric tons). Concerning the causes of the relocation of coca cultivation in Peru, the National Narcotics Consumers Intelligence Committee (NNICC) Report 1995 (August 1996)

notes: "In 1993 and 1994, farmers moved out of the Upper Huallaga Valley (UHV), in part to escape insurgent activity, but other factors included soil depletion, plant disease, and a 'gold-rush' mentality for new areas."

HIDTA

Question 1A. What is the status of implementing the Rocky Mountain HIDTA?

Answer. The Rocky Mountain HIDTA Executive Committee has been formed and meetings have been held. The Executive Committee has hired a director, Tom Gorman, currently Deputy Chief of the California Bureau of Narcotics. Director Gorman will report on July 1, 1997. The HIDTA headquarters will be in Denver. The Rocky Mountain HIDTA is in the process of selecting and training an intelligence staff. Representatives attended new HIDTA training sessions at the HIDTA Assistance Center in the Miami HIDTA. HIDTA staff will be selected and trained by July 1, 1997.

Question 1B. What are some of this HIDTA's accomplishments to date?

Answer. The Rocky Mountain HIDTA has formulated an initiative directed toward three threats: (1) the increasing number of traffickers with a nexus to the Southwest Border; (2) interdiction of distribution networks which have a harmful impact in the region; and (3) organized gangs actively involved in violent crime associated with illicit narcotic distribution. HIDTA staff have conducted research on the best practices of HIDTA intelligence sharing centers. The Rocky Mountain HIDTA intelligence sharing center will be activated this month. HIDTA representatives have met with most task forces in the Denver metropolitan area to inform them about this new program. With respect to training, the coordinator has arranged for six joint training classes. Law enforcement agencies from nearby jurisdictions outside of the HIDTA task force have requested and received training in intelligence and information sharing.

Question 1C. What additional steps can be taken to support the HIDTA's satellite offices in Laramie, Wyoming, and Salt Lake City, Utah?

Answer. The HIDTA Executive Committee has identified requirements for joint operations. The Rocky Mountain HIDTA intelligence sharing center will be establishing an intelligence sharing network with the offices in Laramie, Wyoming and Salt Lake City, Utah.

DEFENSE INTELLIGENCE CENTER STUDY

Question 1A. Mr. McCaffrey, during your testimony before the subcommittee, you stated that you were going to have the Defense Intelligence Center study, review, and submit a report to you on the amount of drugs coming into the United States. Can you please provide the committee with a specific outline of the goals and scope of this study and what you hope this study will provide?

Answer. As I recall, during my testimony before the Subcommittee, I said that I was going to task the National Drug Intelligence Center (NDIC) to develop a methodology to evaluate the severity of the drug problem in various geographic areas (most likely counties) to assist in designating HIDTA sites, rather than a study on the amount of drugs coming into the United States. The methodology would consider, where possible, direct drug indicators (e.g., drug use prevalence, drug possession offenses, drug-induced deaths and morbidity), drug-related indicators (drug-related deaths and morbidity, suicides, crime), and demographics and other social indicators. We would then be able to rank each county within the United States (and graphically represent them) to determine where the most severe problems were occurring. This information would be considered when selecting future HIDTA sites. The study will be conducted using existing data from federal, state, and local sources.

Question 1B. How much will this study cost, and is ONDCP going to pay for it out of its own budget?

Answer. ONDCP estimates that this study will cost approximately $200,000. It will be funded through existing HIDTA funds. ONDCP will be tasking this study to its existing policy research contractor.

Question 1C. What information will this study provide you that is not currently available?

Answer. While the study is to be conducted using existing data, these data have never before been collated and synthesized for this purpose. We will have an extensive data base that can be used to geographically identify areas with the most severe drug problems. With existing computer mapping technology we will also be able to graphically represent these data. This information will not only be useful to the HIDTA selection process, but possibly to other federal priority-setting purposes. It

also can be made available to the states who may have a particular interest in it for assistance in allocating block grant funds.

Question 1D. Why was the Defense Intelligence Center the organization chosen to do this study, specifically, what attributes does this Center have that other organization do not, which makes them the appropriate choice to conduct such a study? How does this study overlap with the Drug Enforcement Agency already has done?

Answer. Since my testimony ONDCP has determined, in consultation with NDIC, that NDIC is not the appropriate agency to conduct such a study. Instead, ONDCP has decided to task our policy research contractor, CSR, Incorporated with this project. CSR has more than 20 years of experience in conducting substance abuse research for a variety of federal clients. They have served as ONDCP's primary policy research contractor for the past five years. As a contractor to the National Institute on Alcohol Abuse and Alcoholism, CSR conducted a similar study for county-level indicators of alcohol-related problems that has proven very useful to the states. Since this study is not concerned with an analysis of the amount of drugs coming into the United States, as the Subcommittee may have understood, there is no overlap with DEA's work.

Question 1E. How will the Center have access to drug trafficking information that DEA has?

Answer. Much of the data to be used for this study is publicly available and, therefore, readily available to CSR. Also, since the scope of the study is at the county level, any data used must be available for all U.S. counties. Most data that the DEA would have on drug trafficking probably does not meet this criteria. However, to the extent that the DEA has relevant data (e.g., STRIDE data), we do not anticipate any difficulty in obtaining it for analysis purposes. ONDCP and DEA have an ongoing arrangement for ONDCP to gain access to DEA's data excluding DEA operational data or other case sensitive data.

Question 1F. Have you sought the Justice Department's reaction on this study, and if so, what is their position on involving the Defense Intelligence Center in this role?

Answer. Given that ONDCP is using its own contractor, as discussed above, it is not necessary to discuss the study with DOJ.

Question 1G. What impact, if any, will the Center's report have on existing HIDTA's?

Answer. Results from the study will be shared with the existing HIDTA's which, in turn, could use them for evaluation purposes. However, the primary purpose of the study is to assist ONDCP in making future HIDTA site selections based on the severity of the drug problem.

MEDIA CAMPAIGN

Question 1. Given that ONDCP's mission is to coordinate the national drug policy across all federal agencies, do you plan to have those agencies with a hand in fighting drug use among our nation's youth, provide some of the $175 million requested for the youth media campaign?

Answer. ONDCP has proposed that the Youth Media Campaign be funded within ONDCP's fiscal year 1998 appropriation without funds from other agencies. However, other federal agencies which play a role in preventing youth substance abuse such as the Departments of Health and Human Services and Department of Justice will derive benefits from this campaign. ONDCP's proposal involves negotiating free "matching" air time for PSA's devoted to appropriate messages about drugs and drug-related issues, including youth substance abuse, drug-related crime, drug-related AIDS, mentoring, and parenting programs.

Question 2. Do you currently have specific commitments from the private sector to provide their portion of the $175 million for the youth media campaign?

Answer. ONDCP has not begun to negotiate with networks and media organizations at this time. If Congress appropriates funds for the Campaign that will be the responsibility of the media buying service with which ONDCP intends to contract. Such commitments are typically made when ad time is purchased and are based on negotiations. However, some networks have already committed to maintaining the existing level of anti-drug public service messages. In addition, at least seven major (non-media) national corporations have already contacted ONDCP indicating their willingness to become involved in a "match" arrangement whereby they would purchase air time for ONDCP messages.

Question 3. How do you believe we can continue to receive pro bono anti-drug advertising if we begin to pay for those ads?

Answer. Whereas ONDCP appreciates the extensive amount of public service time currently contributed by the media at the network and local levels, a great propor-

tion of this time is in the middle of the night or at other times when children are not watching. It is important to note that even if public service time were to be increased substantially, a tailored, targeted campaign of the type ONDCP is proposing is impossible to undertake without paid ads. ONDCP must be able to target specific youth audiences which watch TV at specific times.

As noted above, two major networks have indicated they will not decrease their existing anti-drug public service commitment should we purchase time for anti-drug ads. We expect other media organizations to follow. Other networks have indicated they will increase their in-kind public service contributions. We anticipate negotiating a greater percentage of free time in local or regional markets than on network television.

INTERDICTION EFFORTS AND MEXICO CERTIFICATION

Question 1A. Mr. McCaffrey, I am aware that you lobbied the White House and Congress on recertifying Mexico, something which, as a Western Senator, concerns me because those of us in the West aren't convinced that Mexico is doing all it can in the war against drugs. I felt strongly enough to introduce a bill, S. 457, which gives countries seven months to prove they're holding up their end of the certification deal, whereby specific standards are to be met before the President re-certifies them and if they don't meet the standards, aid is cut off. What are your views on the current drug certification process?

Answer. As discussed above, the drug certification process provides one tool among many to help reduce the flow of illegal drugs across our borders. The sections of law which provide a foundation for the certification process require two major actions. They require the administration to report annually to Congress about the nature of cooperation between the United States and the major drug producing and transit countries, and they require non-discretionary penalties to be imposed against major drug producing and transit countries which are not certified.

Considering the increasing importance of our bilateral drug control relationship with key countries such as Mexico, we have moved to other mechanisms in addition to the annual certification findings and the International Narcotics Control Strategy Report (INCSR) to advance drug policy and keep Congress informed and actively involved. We have briefed Members of Congress about developments in Mexico, and we will be providing a detailed report about progress in key areas in September. We also have raised the profile of our counterdrug policy with Mexico through the creation of the U.S.-Mexico binational High Level Contact Group. More recently with the signing of the U.S.-Mexico Counter-drug Alliance our two countries set out concrete goals toward which we are working cooperatively, and agreed to produce a strategy to reach those goals by the end of this year.

Close cooperation with both Congress and with a foreign government has advantages, although it is resource intensive, and is a model we ought to consider in determining how certification can be improved.

Question 1B. Given the recent House and Senate opinions of the Administration's recertification of Mexico, do you believe the current certification process is working?

Answer. The legislation introduced in the House and Senate with regard to Mexico reflected deep frustration with the quantity of drugs entering the United States across the Southwest Border, violence along the border, corruption and apparent Mexican inability to reduce the flow significantly. Perhaps most importantly it reflected a belief that Mexico lacks the political will to act seriously against drugs. However, as discussed above, the certification process is working.

In reaching a decision to certify Mexico we had to determine whether or not Mexico was cooperating fully with the United States or acting unilaterally to accomplish the goals and objectives of the 1988 U.N. Drug Convention. On the basis of its accomplishments, Mexico earned certification in 1996. Drug seizures were up, eradication was the best in the world, kingpins were arrested, a Mexican citizen was extradited to the United States for the first time, and the Congress enacted landmark new counterdrug legislation. More importantly, the leadership put drug cooperation with the United States at the top of their agenda, explicitly recognized the threat of drug trafficking as the major national security threat to Mexico.

The decision to certify Mexico is both legally and pragmatically correct; Mexico was allowed to cooperate more effectively with the U.S. than if we had decertified Mexico or certified on U.S. national interest grounds.

Cooperation is not easily quantified. Quantity of drugs seized does not translate directly into a measure of national cooperation. The number of arrests is not significant in itself unless those arrested control drug trafficking networks and the arrest results in disruption of the network. Even arrest of a major trafficker is insignificant if the arrestee continues doing business from prison.

Cooperation ought to be determined by how well a nation manipulates its political, economic, law enforcement, and judicial systems to reduce the impact of illegal drug trafficking and consumption. By that measure Mexico has taken significant steps, some in cooperation with the United States. It is engaged in a thorough reform of its law enforcement system, which, if successful over the next several years, will lead to an end to impunity for drug traffickers. The military is currently playing a more important role in counterdrug activities and is performing well. Drug policy with the United States is coordinated through the U.S.-Mexico Binational High Level Contact Group, and we are working to develop a shared drug strategy by the end of the year. The High Level Contact Group has greatly improved military-to-military relations, information sharing and the development of bilateral border task forces, which would not have been possible if we had decertified Mexico or certified on the basis of U.S. national interest.

Question 1C. How would you improve it?

Answer. The certification process is an important mechanism, though not the only one, to motivate foreign governments to work against drug trafficking. The process is also a device which requires the Executive Branch to report timely and relevant information to Congress. We can work towards improving our consultations with Congress consistent with Congressional interests and needs.

Although the certification process is extremely complex, it plays a pivotal role in U.S. drug policy. It should not be changed without a thorough examination of the likely consequences of change, intended and unintended.

Question 1D. Would ONDCP and the Administration support S. 457?

Answer. Though this legislation has not been cleared through the White House, ONDCP feels that the proposed legislation, which introduces the option of a probationary certification, would decrease the discretionary authority of the President to impose sanctions on other countries. Rather than offering greater leverage in relations with drug producing and transit countries, a probationary period would lock the U.S. into a position regarding aid and development bank support early on in the process and could jeopardize opportunities to develop alternative solutions to the international drug trafficking problem. While we certainly agree that close Executive/Congressional communication on counterdrug initiatives is imperative, the proposed legislation is not a viable option to promote such communication. As a result, ONDCP would not support S. 457.

Question 2A. Mr. McCaffrey, is your agency responsible for estimating the amount of drugs that come into this country each year and for tracking the success of our interdiction efforts?

Answer. ONDCP is responsible for the overall assessment of the success of all of U.S. drug control programs. In 1994, ONDCP created the position of U.S. Interdiction Coordinator (USIC) to oversee all international interdiction activities. The USIC has recently chartered and taken sponsorship of the Interagency Counter Drug Performance Working Group (ICPAWG) to better measure the performance of our interdiction resources and activities.

ONDCP coordinates the establishment of programs and processes to both implement the *National Drug Control Strategy* and assess the effectiveness of those efforts. We do not prepare the estimates of the amounts of drugs coming into the United States but we do establish the requirements for making such estimates. Making these estimates is a complex and difficult task that involves many of our drug control agencies such as the State Department, Central Intelligence Agency, and the Drug Enforcement Administration. Though we have had estimating processes in place for many years, we are currently making refinements to give us better, more reliable and more timely information on illegal drug production and shipment to the United States.

Question 2B. Can you explain to the subcommittee how you know the amount of drugs coming to this country if we only know we're catching a small portion of it?

Answer. Estimates of the amount of cocaine, heroin and marijuana coming to the U.S. are developed routinely by the drug intelligence community. Each year an imagery-based estimate is made of illicit narcotics cultivation in various parts of the world such as Burma, Afghanistan and Colombia for heroin, and Peru, Bolivia and Colombia for coca. The extent of opium and marijuana growing in Mexico is also assessed. This statistical methodology is highly reliable and provides a comprehensive baseline of illicit narcotics crops.

Estimating the amount of illegal drugs actually produced from the available crops is less precise. Information such as local consumption of raw or semiprocessed coca or opium and efficiency in converting raw material into cocaine or heroin is difficult to obtain. Programs such as the Drug Enforcement Administration's "Operation Breakthrough" are assisting us in better understanding how efficient the cocaine producers are. Other interagency efforts are underway to expand and improve our

information (e.g., non-U.S. demand, particularly for cocaine). Estimating how much and by what means the drugs actually come to the U.S. is an ongoing process carried out by the principal drug intelligence components: DEA, CIA and Customs. The estimates are based on information developed through foreign intelligence collection, law enforcement operations, open source information, and analysis.

Our current estimates are that most marijuana produced in Mexico, Colombia, and other Central/South American countries (about 10,000 metric tons) is destined for the U.S. We estimate that about 600 metric tons of cocaine are available for worldwide consumption. A significant portion of the cocaine leaving South America has historically come to the U.S. The increasing demand for cocaine in Europe and other parts of the world make it that much more difficult to estimate how much cocaine is actually destined for U.S. markets. The total estimated worldwide heroin production is approximately 400 metric tons annually. We estimate that the U.S. market demand is about 10–15 metric tons.

Question 2C. How then do you know what percentage we're actually interdicting?

Answer. The percentage of what we are interdicting of cocaine and marijuana is based on the amounts of drugs seized compared to the estimates of what is coming to the U.S. The seizures include those made in the transit zone (both on the high seas and in the transit countries) as well as at the borders of the U.S.

Question 3. What are your interdiction Priorities for this year and is there a way for us to measure whether or not you're reaching these goals?

Answer. Our interdiction priorities are to disrupt the flow of all illegal drugs we know about by interdicting them along the route from production area to domestic U.S. markets. Areas of major emphasis are the source countries, the Southwest Border (U.S.) and the eastern Caribbean, Puerto Rico and south Florida. Each year we compare disruptions in the flow (seized and jettisoned and destroyed drugs) with previous years' results to assess our interdiction effectiveness. This comparison, however, presents only a partial picture of effectiveness because changes in the amount, type and direction of the flow can also affect the level of disruption. For example, an increase in drug seizures may occur because the traffickers greatly increase the flow through an area. In this case increased seizures could mean less effectiveness instead of more. Accordingly, our proposed performance targets will seek to measure flow disruptions as a ratio of estimated drug flow from the source country, across the transit zones, and within the U.S. This innovative approach will require applying new modeling techniques to the intelligence we now receive and will be a priority in implementing our new performance measurement system.

INTERAGENCY COORDINATION

Question 1A. Can you describe what types of authority ONDCP currently has to influence its interagency coordination efforts?

Answer. ONDCP's current authorization contains a number of provisions that permit us to influence interagency coordination efforts. These include:

—Development of the National Drug Control Strategy, 21 USC 1504, in consultation with the heads of the National Drug Control Program agencies.

—Development of goals, objectives, and priorities for supply reduction and demand reduction programs in the National Drug Control Strategy, 21 USC 1504(b).

—Development of performance measures for the National Drug Control Strategy that evaluate the efficacy of all domestic and international programs in relation to the goals and objectives of the Strategy, 21 USC 1504(a)(7).

—Development of a consolidated National Drug Control Program budget and certification of the adequacy of the annual budget requests of National Drug Control Program agencies to implement the National Drug Control Strategy, 21 USC 1502(c).

—Request National Drug Control Program agencies to include in their annual submissions funding requests for specific initiatives that are consistent with the President's priorities for the National Drug Control Strategy and annual budget certification by ONDCP, 21 USC 1502(c)(5).

—Monitor implementation of the National Drug Control Program by conducting program and performance audits and evaluations, and requesting assistance from the Inspector Generals of relevant agencies in audits and evaluations, 21 USC 1502(d)(7).

—Issue funds control notices to National Dug Control Program agency accounts, 21 USC 1502(f).

—Certify policy changes by National Drug Control Program agencies, 21 USC 1503(b).

Question 1B. Are there currently gaps in ONDCP's authority which make it more difficult for ONDCP to fulfill this mission and how can Congress help?

Answer. The Administration has submitted legislation to Congress to reauthorize ONDCP. This bill contains the following provisions that will enhance ONDCP's effectiveness in coordinating the national drug program in the interagency process:

—Amends current law to require the submission of a comprehensive ten-year plan for reducing drug abuse and its consequences in the United States.

—Provides for an annual report to Congress on the implementation of the ten-year strategy and performance measures. Permits modification to the ten-year strategy as may be necessary to meet new and varying challenges, as well as to improve, create, or eliminate programs in supply and demand reduction efforts.

—Amends current law to permit five-year drug budget projections to support long-range planning for national drug control program agencies.

—Codifies the role played by the Director, ONDCP in the certification process of drug production and trafficking nations.

—Clarifies ONDCP's jurisdiction over activities to reduce the underage use of tobacco or alcoholic beverages. Reducing the use of alcohol and tobacco by youth has long been recognized as key to effective drug prevention and education programs.

—The Administration's bill proposes a new performance measurement system to evaluate the effectiveness of the National Drug Control Strategy and federal drug control programs.

—The bill establishes the HIDTA program as a separate program within ONDCP and gives the Director the authority to issue regulations for the efficient operation of the HIDTA program.

Question 1C. How do you help multiple agencies coordinate the same or similar programs?

Answer. In addition to the above mentioned tools for coordination, ONDCP employs two others: the ongoing development of the National Drug Control Strategy, and extensive, ongoing programs of consultation and information exchange. This takes many forms:

1. *Consulting public officials.* Every cabinet officer and all departments and agencies participated in the development of strategic goals and objectives and in the formulation of supporting budgets, initiatives, and programs. Similarly, views and suggestions were solicited from every Member of Congress. At the state and local levels, ONDCP sought input from each state governor along with those from American Samoa, Puerto Rico, and the U.S. Virgin Islands, and from mayors of every city of 100,000 or more people. Views from public officials overseeing federal, state, and local prevention, education, treatment, law enforcement, correctional, and interdiction activities were also requested.

2. *Convening or participating in conferences and meetings.* ONDCP briefed participants in numerous gatherings of organizations like the National Governors' Association, the Conference of Mayors, the National Association for the Advancement of Colored People, the American Medical Association, the American Bar Association, Boys and Girls Club of America, D.A.R.E., PRIDE, National Families in Action, and the National Association of Police Officers. ONDCP also participated in major international conferences in Geneva, São Paulo, and Vienna. Additionally, ONDCP convened or participated in the following conferences and meetings to promote greater coordination of international, federal, state, and local anti-drug efforts; consider emerging problems; and consult experts as the 1997 *Strategy* was being developed.

(a) *The President's Drug Policy Council.* Established by the President in March 1996, this cabinet-level organization met on May 28, 1996 and December 12, 1996 to assess the direction of the National Drug Control Strategy and discuss drug policy initiatives. Members of the Council include heads of drug control program agencies and key presidential assistants.

(b) *Southwest Border Conference.* El Paso, Texas, July 9–10, 1996. Federal, state, and local representatives met to discuss the challenge of stopping drug trafficking across the 2,000 mile-long U.S.-Mexico border.

(c) *HIDTA Conference.* Washington, D.C., July 15–16, 1996. Participants considered how the congressionally-mandated HIDTA program can better coordinate regional law enforcement efforts.

(d) *USIC/J–3 Counterdrug Quarterly Conference.* Washington, D.C. These meetings provided a forum for executive-level discussions of U.S. international drug interdiction programs.

(e) *California Proposition 215/Arizona Proposition 200 Briefing.* Washington, D.C., November 14, 1996. State, local, and community leaders briefed federal de-

partment and agency representatives on the recently-passed ballot initiatives as the federal response to both measures was being formulated.

(f) *Entertainment Industry.* Hollywood, California, January 9–10, 1997. ONDCP met with leaders in the entertainment industry to discuss how the national drug prevention effort might be supported by the creative talents of the broadcast, film, and music industries.

(g) *Methamphetamine Conferences.* San Francisco, California, January 10, 1997. The purpose of this regional meeting was to examine the growing methamphetamine problem in western states, review progress made since the April 1996 release of the National Methamphetamine Strategy, and consider appropriate responses. A follow-on national methamphetamine conference was held May 28–29, 1997 in Omaha, Nebraska.

Question 2. Can you outline to the committee what are the most difficult areas of interagency coordination?

Answer. The areas which pose the greatest challenge to interagency coordination are those in which multiple agencies have developed multiple, often duplicating, roles and missions over a long period of time. In areas such as these, an overall policy coordination agency such as ONDCP is critical to ensuring that available assets are used in the most effective manner possible. Perhaps the two most important areas where ONDCP has taken the lead in coordinating multiple agencies are in the development of an Intelligence Architecture and the Southwest Border Initiative.

A. Southwest Border Initiative

If a single geographic region were to be identified as a microcosm of America's drug problem, it would be the two thousand mile-long U.S.-Mexican border. Cocaine, heroin, methamphetamine, and marijuana all cross into the United States here, hidden among the 84 million cars, 232 million people, and 2.8 million trucks that the Customs Service estimates cross the 38 ports along the border. American and Mexican ranchers are continually threatened and often harmed by violent bands of drug runners openly crossing their property.

Significant reinforcements have been committed to the substantial resources already focused on the Southwest Border. Our challenge is to design and implement an overarching operational strategy that better organizes our interdiction operations. We must focus resources, provide timely and accurate intelligence on the activities of drug traffickers, develop evidence for prosecutions, and respond to shifting drug-trafficking patterns.

B. Intelligence Architecture

We face an enormous organizational challenge at our borders and in the air and maritime approaches to the United States. Our status as the preeminent commercial nation in the world makes us particularly vulnerable to drug trafficking. More than 400 million people enter the United States every year; any one of them can carry several million dollars worth of heroin. Four hundred million tons of cargo also enter our country every year. Illegal drugs represent 0.00001 percent of that traffic. Our challenge is to stop the one millionth part that represents illegal drugs without significantly affecting legal commerce and movement, which represents the life-blood of our country. We have the capacity to be successful until we not only appreciably lessen the quantity of drugs on our streets but also make serious inroads into the ability of international thugs to continue operating. Such progress requires commitment, organization, and dogged effort.

Currently, many agencies and inter-agency groups collect, process, analyze and use intelligence on drugs and the movement of drugs. Our challenge as a government is to ensure that information acquired and processed by one agency is made available to all agencies who have need of it, while at the same time ensuring that sources and methods are protected. This means that we must find a way to get intelligence gathered by national assets down to the local sheriff on the border in time to make arrests. At the same time, we must ensure that this intelligence is preserved in accordance with the criminal justice system's evidentiary standards so that traffickers can not only be arrested, but can also be convicted. All of this must be done while still preserving the secrecy of collection methods, be they radio and wire intercepts, airborne radar tracking or human intelligence. The challenge is immense. It requires an agency such as ONDCP, which can take the long view without considerations of turf, to integrate and implement it.

Question 3. I understand that ONDCP is currently in the process of working with all of these agencies to develop performance standards in our effort to combat drug. What is the current status of this effort and the interagency involvement in this project?

Answer. More than 100 agency representatives have worked over the past six months to develop performance targets and measures for the 5 Goals and 32 Objectives of the *National Drug Control Strategy*. ONDCP established five steering groups to oversee the development of targets and measures for each goal. Twenty-one working groups, chaired by agency representatives, developed the targets for each Strategy Objective. Under the supervision of steering groups, the working groups have performed exceptionally well and have drafted 103 targets and measures. These draft targets and measures are now being reviewed by ONDCP prior to submittal for formal interagency review. ONDCP intends to submit a report to the Congress by the end of the Summer discussing the proposed Performance Measurement System.

Question 4. What areas do you see as current successes and failures of ONDCP Interagency Cooperation?

Answer. It is important to note that one of the reasons the President adopted a 10-year *National Drug Control Strategy* was that it was not seen to be effective to try to gauge success or failure on a year-by-year basis. America's drug abuse problem is a long-term problem, and the solution to it must be similarly long-term. With that caveat in mind, we are seeing promising indicators in the following areas:

Countering the Spread of Methamphetamines.—Meth, "the poor-man's cocaine", has the potential to ruin the lives of an entire generation of young Americans. ONDCP and other federal agencies spotted this trend early on. With the cooperation of many state and local agencies as well as members of Congress, ONDCP held two methamphetamine conferences to examine divergent areas such as treatment, precursor control, law enforcement and prevention. Based on these conferences, agencies have formed working partnerships to target the spread of methamphetamines from traditional hot spots on the Pacific coast. The payoff was in the most recent statistical indicators of methamphetamine use, which showed a marked decline.

Adoption of the Ten-Year Strategy.—This was an innovation in government, and marked a new way of thinking about solving interagency problems. The President's plan to reduce drug abuse in the long-term is one of the boldest examples of interagency coordination in recent years.

These successes, however, do not mitigate against what is surely the most disturbing aspect of drug abuse in America—the rapid rise of drug abuse among our children. ONDCP has proposed a $175 million advertising campaign targeted specifically at our young people. This campaign will deliver a powerful anti-drug message to 90 percent of our young people four times a week in prime time. The aim of the campaign is to foster a disapproval of drug abuse and a heightened awareness of the risks of drug abuse. Our research has shown us that, if these two conditions are met, then youth drug use will decline.

METHAMPHETAMINE AND HEROIN

Question 1. What is ONDCP's view of the problems of methamphetamines and heroin?

Answer. These are two of the most dangerous drugs we face. Methamphetamine is an incredibly addictive drug that is cheaper than cocaine and creates a longer high. It is a powerful central nervous system stimulant that creates extreme paranoia and aggressiveness. It severely reduces and sometimes destroys normal brain processes making treatment extremely difficult. The chemicals used to make this drug create toxic environmental hazards that pose dangers to people and property. It is being made in small labs in the U.S. (while Mexican traffickers move large quantities of the drug from super labs). The greatest use is in the West and Southwest but is gaining popularity in the Midwest. Anecdotal data indicates more use by women than men. Although methamphetamine abuse is a small part of the overall national drug problem it has the potential to become the next crack epidemic if it is not checked. This is why it is important to stop this emerging drug threat. We must act now if we are to prevent a future drug epidemic from methamphetamine or some other synthetic drug.

If domestic methamphetamine production decreases, the demand for the drug in the U.S. will likely be met primarily by large, Mexican methamphetamine organizations. To meet this potential growing demand for foreign produced methamphetamine, large loads of Mexican-produced methamphetamine crossing the border by drug transportation groups will become more common.

U.S. recognition of this growing threat was highlighted in recent conferences sponsored by ONDCP in Omaha and San Francisco. Cooperative efforts to control precursor chemicals and to work with Mexico to improve their ability to discover and investigate methamphetamine manufacturing and smuggling operations are underway.

The heroin interdiction challenge is enormous. Potential global production has increased about 60 percent in the past eight years to about 360 metric tons. In 1995, worldwide heroin seizures totaled 32 metric tons, less than 10 percent of the global production potential. The U.S. demand is approximately ten tons of heroin which is consumed by 600,000 addicts; it represents but a fraction of the production potential. U.S. heroin seizures in 1995 were just 1.3 metric tons. Our heroin control efforts must take this reality into account.

A powerful narcotic, the typical user today consumes more heroin than ever because snorting or smoking high purity heroin is easier than injection. However, needle sharing is a transmitter of HIV. Severe drug dependencies develop—mental and physical—causing a person to commit many crimes to find dollars to purchase the drug. It remains readily available in many cities and Colombia's heroin trafficking has increased. We believe there are 600,000 chronic users in the U.S. Although our 1996 Pulse Check found that most users are older, chronic abusers, we are concerned that heroin use not spread among younger people. ONDCP is working to expand treatment capacity for these addicts.

Question 2. What additional steps can ONDCP take to help sheriffs and police officers in fighting methamphetamines and heroin in Colorado and the Rocky Mountain Region?

Answer. Further refinement and development of the Rocky Mountain HIDTA program is our most important effort in the region. Designated in October of 1996, we have launched two major initiatives in training and intelligence gathering. The law enforcement training program is firmly underway. The intelligence program—designed to improve information gathering and intelligence sharing—has recently obtained its technical equipment and its analysts are being hired and trained.

At the federal level, we are developing methamphetamine-specific education and prevention materials that will be made available at the local level. We have awarded $10 million to the DEA, EPA and NIDA to develop programs that will assist local officials. We are updating the anti-methamphetamine strategy which is due out early next year. The refined strategy will allow us to better organize and coordinate at the national and regional levels. We are encouraged that recent data from the National Institute of Justice's Drug Use Forecasting Program (DUF), which indicate that methamphetamine use among drug arrestees decreased 42 percent (3.8 to 2.2) over the past year; a promising indicator that our comprehensive strategy is working at the local level.

COUNTER DRUG TECHNOLOGIES

Question 1A. Last month, this subcommittee held a hearing on the federal law enforcement agencies within the Treasury Department. An important part of that hearing was a display of some of the latest technologies which are being used to fight crime. Law enforcement officials in Colorado, including Sheriff Pat Sullivan of Arapaho County, have expressed interest in the work being done by ONDCP's Counter Drug Technology Assessment Center (C–TAC). Can you provide the subcommittee with an overview of the technologies being developed by the Center that may be useful for state and local law enforcement?

Answer. Technologies being developed by C–TAC for state and local law enforcement stem from pilot projects funded by C–TAC and managed by a state and local organization. The most successful of these endeavors has been in the application of recent significant advancements made in the performance and capabilities of personal computers to the law enforcement tasks associated with financial crimes (State Attorney Generals in Texas, Arizona, and Utah), trafficker communications patterns (landline, cellular clones, and pagers—New York State Organized Crime Task Force), and drug-related violent crimes (Pinellas County Sheriffs' Office, Florida).

C–TAC also conducts performance evaluations of drug detection systems and produces an evaluation report. These reports are distributed to law enforcement agencies (federal, state and local) to assist in buying the correct drug detection systems.

Question 1B. What about in the area of methamphetamine detection? Is the Center working on technologies that would help detect and shut down methamphetamine labs?

Answer. The number of clandestine drug laboratories seized in the United States has been increasing dramatically. Of particular concern is the illicit production of methamphetamine which has risen in the Midwest and Rocky Mountain regions. To support the increased activities of the Drug Enforcement Administration and regional law enforcement, C–TAC is sponsoring programs that include the development of portable/mobile platforms to provide on-site forensic analytical capability. This will keep valuable criminal and intelligence information from being lost when

a clandestine laboratory is seized. Additionally, a comprehensive database related to drug preparation along with the precursor chemicals and drug preparation equipment is being developed. C–TAC is supporting development of a system to rapidly disseminate data to field agents to assist in identifying the different types of drug labs and safety requirements recommended. C–TAC and DEA are also coordinating on other advanced technological efforts in locating and dismantling drug laboratories that will be available to state and local law enforcement.

Question 1C. Colorado is seeing an increase in heroin shipments coming up from Mexico. Are there technologies that could assist law enforcement in identifying these drug traffickers and their heroin shipments?

Answer. C–TAC is addressing the issue of drug trafficking and the ability of technology to help law enforcement restrict such trafficking. One program develops the capability to provide remote communications to law enforcement officers in all types of terrain including rugged geographical areas like Colorado. Preliminary analysis of such capabilities is being presently undertaken by C–TAC with site visits in the states of Washington, Idaho and Colorado. C–TAC is also developing methods for communications among regional law enforcement task forces with non-standard communication equipment to enable regional anti-drug trafficking operations to be successful. Initial models have been placed in southern California law enforcement agencies.

Question 1D. My understanding is ONDCP would like to change the title of Chief Scientist at the Center to 'Director of Technology'. It seems that this change would place less emphasis on the importance of anti-drug technology. Could you explain the proposed change to the subcommittee?

Answer. ONDCP's reauthorization legislation proposes a number of changes to the current statutory authority for the Counterdrug Technology Assessment Center (C–TAC), all of which are designed to enhance its role in the development of anti-drug technology. The Administration's bill proposed to change the title of "Chief Scientist" to "Director of Technology" to reflect ONDCP's current organizational chart. This organizational chart reflects the expansion of ONDCP's staff to 154 (124 FTE's and 30 DOD detailees) and alignment of staff responsibilities. C–TAC remains a special component that reports directly to the Director, ONDCP.

The reauthorization proposal reflects the increasingly important involvement by C–TAC in the development of drug demand reduction technologies. This includes supporting biomedical research into the development of medications to prevent and reduce drug dependence and abuse. These exciting activities complement C–TAC's traditional role in supporting supply reduction efforts through research into non-intrusive inspection systems; improved border surveillance, detection, monitoring, and apprehension capabilities; and improving drug intelligence activities.

The reauthorization proposal also contains new authority providing C–TAC support for ONDCP's efforts to develop and implement a system of measures of effectiveness for programs implementing the *National Drug Control Strategy.* The involvement of C–TAC in the national drug control performance measurement system is key to insure that appropriate anti-drug technology considerations are included by national drug control programs agencies in the implementation of the Strategy.

FISCAL YEAR 1998 BUDGET REQUEST

Question 1A. The Administration is proposing to spend $16 billion in fiscal year 1998 on anti-drug efforts. Can you briefly explain those efforts for the committee?

Answer. The Administration's proposal, summarized by each major functional area of the budget, is presented in the table below:

[Budget Authority in Millions]

Drug function	Fiscal year—				
	1996 actual	1997 enacted	1998 President's request	1997 to 1998 change	
				Dollars	Percent
Criminal Justice System	$7,164.9	$7,835.5	$8,126.5	$291.0	3.7
Drug treatment	2,553.8	2,808.7	3,003.5	194.8	6.9
Drug prevention	1,400.7	1,648.0	1,916.5	268.5	16.3
International	289.8	449.7	487.6	37.9	8.4
Interdiction	1,321.0	1,638.6	1,609.7	−28.9	−1.8
Research	609.2	631.9	673.5	41.5	6.6

[Budget Authority in Millions]

Drug function	Fiscal year—				
	1996 actual	1997 enacted	1998 President's request	1997 to 1998 change	
				Dollars	Percent
Intelligence	114.5	146.4	159.4	13.0	8.9
Total	13,454.0	15,158.9	15,976.8	817.9	5.4

Detail may not add to totals due to rounding.

The President's fiscal year 1998 request for $16 billion reflects the following priorities: reducing youth drug use, reducing the consequences of hardcore drug use, reducing drug-related crime and violence, stopping the flow of drugs at U.S. borders, and reducing domestic and foreign sources of supply.

—Reducing Youth Drug Use. The centerpiece of our national counterdrug strategy effort remains the prevention of drug use by our children. Youth-oriented prevention programs today can significantly reduce the number of addicted adults who will cause enormous damage to themselves and our society tomorrow. Major initiatives targeting illegal drug use by youth and underage drinking and smoking include:

National public education campaign. ONDCP is developing a national public education campaign to supplement existing anti-drug public service announcements developed by the Partnership for a Drug Free America and other organizations and carried by broadcast and print media. This effort will encompass a broad public education campaign that warns our youth of the hazards of using illegal drugs and emphasizes the advantages of drug-free lifestyles.

Youth, drugs and driving initiative. The Department of Transportation and ONDCP are developing an initiative to address the problem of young people driving under the influence of illicit drugs.

Enhanced school-based prevention programs. The federal government, in partnership with state and local governments and the private sector, will continue to develop options to improve the effectiveness of drug prevention education and to ensure that funds are used as effectively as possible.

—Reducing the Consequences of Hardcore Drug use. Hardcore drug users comprise about 20 percent of the drug using population, yet consume over two-thirds of the supply of drugs. By reducing the number of dependent hardcore drug users, we can reduce the health, welfare, and criminal consequences of illegal drug use. Major program initiatives targeting hardcore users include:

Effective rehabilitation and treatment programs. Efforts will continue to expand treatment capacity inside and outside the criminal justice system in order to prevent the problems of hardcore drug use from overwhelming our health and criminal justice systems.

Anti-cocaine medications development. ONDCP, in collaboration with the National Institute on Drug Abuse, is sponsoring research to develop an artificial enzyme that would block cocaine's effect on the brain. Clinical trials are anticipated by the year 2000.

—Reducing Drug-related Crime and Violence. A disproportionate number of the more than 12 million property crimes and almost two million violent crimes that occur each year are committed by drug users or traffickers. Major programs targeting the drugs and crime relationship include:

Increased police presence. More police and innovative approaches to policing, such as Community Policing, can enable communities to reduce drug related crime and to support local prevention and treatment efforts.

Expanded drug courts. Drug courts have proven their worth in showing that court-ordered rehabilitation and treatment programs can be successful in reducing drug use, drug crime, and alleviating prison and jail overcrowding.

Implementation of prison drug testing. New Department of Justice guidelines require states to develop anti-drug plans for prisoners and parolees over the next year. States that do not comply with the new guidelines by March 1, 1998, will lose federal prison grant dollars.

Improved High Intensity Drug Trafficking Area (HIDTA) programs. Properly targeted, the HIDTA program offers greater efficiency and effectiveness in countering drug effects in particularly troubled areas. The Administra-

tion is responding to Congressional interest in expanding and improving this program by developing a comprehensive methodology for earmarking priorities of needs, working with the Justice Department's Organized Crime Drug Enforcement Task Force Program.

—Stopping the Flow of Drugs at U.S. Borders. Unless we shield our borders from the flow of drugs, the United States will never stem illegal drug use. Interdiction is the key to stopping illegal drugs from crossing our borders and reaching our neighborhoods. Major initiatives supporting this effort include:

Programs to stop drug trafficking across the Southwest Border. Drug traffickers are clearly exploiting the extensive legitimate commerce and traffic that crosses the busiest border in the world. ONDCP began a comprehensive review of the federal effort to counter drug smuggling at the Southwest Border with a conference in El Paso in July 1996. These efforts will continue to be priorities for funding over the five-year budget planning period.

Strategy to close the Caribbean "back door". The Administration will continue to expand law enforcement investigations and establish flexible maritime and air interdiction programs to respond to drug trafficking in this region.

Hardening of vulnerable drug entry points. The Administration will develop a comprehensive coordinating capacity that allows federal resources to be focused more efficiently to prevent drug traffickers from importing illegal drugs.

—Reducing Domestic and Foreign Sources of Supply. Working with source and transit nations offers a great prospect for eliminating foreign sources of supply. Cocaine, heroin, and recently methamphetamine, are illegal drugs produced outside the United States that cause the greatest harm to our citizens. Reducing the availability of these drugs is a priority. Initiatives supporting these efforts include:

Reduction of illegal coca cultivation in Peru. Targeting Peru for an intense program that comprises economic development, eradication, improving the rule of law, and sustaining and supporting the political will to attack the drug trade is a top international drug policy priority.

Bilateral cooperation with Mexico. The High Level Contact Group established by the Federal Government in March 1996 has provided a productive framework for addressing drug issues. The United States will work with the Mexican Government, recognizing concerns about Mexico's sovereignty, to enable it to withstand the corrupting influence of drugs.

Reduction of heroin production and trafficking. U.S. access and influence is extremely limited in Burma, Afghanistan, and Laos—the key heroin producing countries. Efforts are underway to work against heroin trafficking organizations in cooperation with other regional partners, including China, and to develop a consensus in the area that will support development of a regionally-integrated anti-heroin effort.

Attack on international criminal organizations. Coordinated interagency approaches to target major drug kingpins have proven to be successful. Law enforcement, supported by intelligence efforts, will continue efforts to disrupt and dismantle major kingpins and their organizations.

Reduction of international money laundering. The law enforcement agencies charged with disrupting money laundering schemes can help disrupt and destroy drug trafficking organizations by attacking their finances. The U.S. government will continue to tighten its own regulations and enforcement procedures to freeze, secure, and confiscate cash and criminally derived assets.

Major drug-related funding initiatives in the President's fiscal year 1998 request include the following:

—*National Media Campaign.* The President's budget seeks to fund a national youth media campaign targeting illegal drug consumption by youth through the $175 million provided in ONDCP's Special Forfeiture Fund. This initiative would rely on high-impact, anti-drug television advertisements aired during prime-time to educate and inform the public on the dangers of illegal drug use.

—*Safe and Drug Free Schools.* $620 million is requested for fiscal year 1998, an increase of $64 million (11.5 percent) over the fiscal year 1997 appropriation. New resources would provide grant assistance to governors and state educational agencies for drug and violence prevention programs.

—*Coast Guard.* $389 million is requested in fiscal year 1998, an increase of $53 million (16 percent) over fiscal year 1997. These new resources will enhance maritime interdiction operations in the Caribbean and Puerto Rico and provide resources for Operation STEEL WEB.

—*Community Oriented Policing (COPS).* $510 million in drug-related resources is requested in fiscal year 1998, an increase of $41 million (9 percent) over fiscal year 1997. COPS serves as the vehicle for the Administration's strategy to fight violent crime and drug use by increasing the number of state and local police officers on the streets.

—*Prevention and Treatment Research.* $522 million is requested in fiscal year 1998 for the National Institute on Drug Abuse (NIDA), an increase of $33 million over fiscal year 1997. These additional resources will further ongoing drug prevention and treatment research efforts of NIDA and the Office of AIDS Research.

—*Drug Courts.* $75 million is requested in fiscal year 1998, an increase of $45 million (150 percent) over fiscal year 1997. These grants support state and local criminal justice agencies to provide court-mandated drug treatment and related services to nonviolent offenders.

—*INS Southwest Border Initiative.* $367 million in drug-related resources is requested for the Immigration and Naturalization Service (INS) in fiscal year 1998, an increase of $48 million over fiscal year 1997. This request provides for an additional 500 Border Patrol agents to stem the flow of illegal drugs and illegal aliens across the Southwest Border.

—*International Narcotics Control and Support for Peru.* The fiscal year 1998 budget includes $214 million for the State Department's Bureau of International Narcotics and Law Enforcement Affairs (INL). Included in the INL budget is $40 million for Peru, an increase of $17 million over fiscal year 1997.

Question 1B. Does the Administration's spending priorities in these areas reflect ONDCP's spending priorities.

Answer. ONDCP plays an important role during the Administration's deliberations on the budget to ensure that key drug initiatives receive adequate consideration. ONDCP fully supports the President's fiscal year 1998 budget and the associated spending priorities.

Question 2A. What is ONDCP's process in developing the annual Drug Strategy?

Answer. Section 1005 of the Anti-Drug Abuse Act of 1988, as amended (Public Law 100–690) requires the President to develop and annually submit to Congress a National Drug Control Strategy. ONDCP is responsible for preparing the Strategy for the President. The law also requires the Director of ONDCP to formulate the Strategy in consultation with a wide array of experts and officials, including the heads of the national drug control program agencies, the Congress, State and local officials, and representatives of the private sector. Developing and implementing the Strategy is a process that continues throughout the year, and the consultation process for the 1998 Strategy is currently ongoing. The consultation process includes input received by the Director during his travels around the country speaking with individuals, organizations and associations about the Strategy, through the responses to more than 1,300 letters sent to individuals in the public and private sector specifically seeking their input on the Strategy, through conferences and meetings, and from the hundreds of unsolicited letters received every year. Each year, starting in the fall, ONDCP staff collate and process all of the information obtained through this consultation process and incorporate it into the initial draft of the Strategy. This draft is distributed to representatives of each of the primary drug control agencies for comment. Revisions are incorporated and the final Strategy is produced for submission with the President's budget.

Question 2B. How does ONDCP solicit, collect and use input from state and local law enforcement?

Answer. The solicitation process involves the sending of a letter from the Director to appropriate individuals. In the letter the Director notes the significance of the Strategy to the nation's effort against drugs and the valuable contribution to that effort that the addressee makes, and asks that written input to the Strategy be submitted.

The first step in this process is to develop a mailing list. Given the large number (several thousand) of state and local law enforcement agencies throughout the country, it is not possible to send each agency a letter. Rather, an attempt is made to identify leading law enforcement officials involved with drug policy issues. This is done through ONDCP's Bureau of State and Local Affairs (including HIDTA staff), who closely coordinate activities with state and local law enforcement on a regular basis, and through other ONDCP staff who regularly interact with law enforcement through conferences and research activities. The consultation process for law enforcement officers is similar to that used for other topic areas (e.g., treatment, prevention, interdiction, source country), with appropriate ONDCP staff providing input to building the mailing list.

The letters are sent prior to the Strategy drafting process in the fall. Last year the letters were sent on November 4. Responses are received and incorporated throughout the period during which the Strategy is written. Last year while the solicitation asked for responses by November 17, they were reviewed through January. Last year over 100 responses were received.

As Director, I review each response and highlight suggestions that are to be incorporated into the Strategy. Input received at other times of the year through unsolicited letters, conversations with concerned parties, etc., are processed similarly. A report is prepared annually summarizing the input received from the public-and private-sector consultation process.

Question 2C. Will you assure me today that Colorado and other states will be consulted further in advance and allowed a sufficient time to respond? Would you inform me as to how you intend to change the current policy in order to ensure this?

Answer. Yes, I can assure you that Colorado and other states will be consulted further in advance and allowed a sufficient time to respond. Steps have already been taken to ensure that this will happen. For example, in December of last year ONDCP and the Bureau of Justice Assistance hosted a meeting at ONDCP with the State Administrators of the Byrne Memorial Grants to discuss ways in which the states can assist in forming federal drug control policy. ONDCP has taken immediate steps to provide state Administrators with appropriate ONDCP staff telephone numbers, and to assure them that their voices would be heard in the development of the 1998 Strategy. Additionally, the letter soliciting input for the Strategy will be distributed earlier to permit sufficient time for a complete and thoughtful response.

Question 3A. Can you tell the committee which agencies have detailees working at ONDCP and which agencies have the largest number of detailees?

Answer. ONDCP has civilian detailees and military assignees. We have civilians from the Department of State (1); the Department of Transportation (1); the Department of Health and Human Services (1); the National Science Foundation (1) and the Federal Bureau of Investigations (1). The military assignees are from the various branches of service within the Department of Defense (24).

Question 3B. What is the typical length of assignment of these detailees? Is there any limitation on the amount of time detailees can be assigned to your agency?

Answer. The typical length of an assignment is one year for civilian detailees with the possibility of a one-year extension. The extension must be a cooperative agreement between ONDCP and the sending agency. Immediately prior to the appointment of Barry McCaffrey ONDCP had no military assignees. Military personnel are assigned for three years.

Question 3C. Does ONDCP provide these people with any training, and if so are these costs borne by ONDCP or the sending agency?

Answer. The civilian detailees are provided training through the sending agency. However, if training is required by the Executive Office of the President to benefit ONDCP, the cost can be absorbed by ONDCP if the funds are available. Additionally, any professional development training required by the military assignee is funded by DOD. Military personnel assigned to ONDCP neither require nor receive any special training prior to assignment.

Question 3D. What number of these are at ONDCP and their salaries are paid for by their originating agency and how may of them have their salaries paid for by ONDCP?

Answer. Of the five civilian detailees, ONDCP reimburses salaries for three. The other two civilian detailees salaries are paid by their originating agencies.

Question 4A. There is funding outlined in the budget request which indicated that the base is fully funded. Is your base fully funded?

Answer. Our fiscal year 1998 budget request has sufficient funding to support the salary and benefits as well as the other requirements of 154 staff, 124 FTE and 30 detailees.

Question 4B. How many positions (FTE) are unfilled?

Answer. Twenty-five of the 124 FTE positions are unfilled.

Question 4C. What would it take to fill those positions?

Answer. Recruitment has been ongoing. The following information specifies where we are in the process to date: Ten of the unfilled positions will be advertised in the near future; job announcements for six vacancies will close this month; interviews are ongoing for two vacancies; candidates are being sought for one remaining PAS position; one PAS is being vetted by the administration; and confirmation is pending for one PAS position. Four selectees are pending approval by the Administration (i.e., drug test results, security clearances, etc.).

Question 4D. Is the amount requested to maintain current levels accurate? What will all of this funding be applied to?

Answer. The ONDCP fiscal year 1998 budget request of $18,016,000 will provide sufficient resources ($11,546,000) to support the salaries and benefits of 124 FTE (154 positions). The Travel object class request of $600,000 will cover the cost of staff and invitational travel, an increase of $75,000 over the fiscal year 1997 requested reprogrammed amount. The Transportation of Things object class request of $28,000 includes resources for miscellaneous moving expenses, freight and express charges. The Rent, Communications, and Utilities object class request includes GSA rent payments of $1,900,000 and communication and utility costs of $294,000. The Printing and Reproduction object class requires $302,000 for the printing of the National Drug Control Strategy and other publication requirements. The Other Services object class request of $2,889,000 supports personnel training, equipment maintenance, building security, the facilities contract to operate ONDCP's telecommunications center, and the Director's protection service. The Supplies and Materials object class request of $122,000 will allow ONDCP to purchase the supplies, materials, and publications required. The Equipment object class request of $335,000 will allow the purchase of required office equipment, personal computers and secure communications equipment.

Question 4E. When President Clinton took office he issued Executive Order 12837 that mandated the reduction of administrative costs, as well as personnel over a four year period. ONDCP bore the brunt of this mandate with the Executive office. fiscal year 1997 was the last year of the Order, will you have to continue to carry out the mandated reductions in fiscal year 1998?

Answer. Executive Order 12837 mandated that over a four-year period ending with fiscal year 1997, agencies shall submit budget requests that reflect no less than a 14 percent reduction in administrative expenses from the amounts made available for fiscal year 1993 adjusted for inflation. OMB has defined administrative expenses to reflect all non-payroll costs with the exception of GSA rent and furniture. Through fiscal year 1997 ONDCP administrative categories reflect a decrease of 45 percent from amounts obligated in fiscal year 1993. Executive order 12837 ends with the close of fiscal year 1997.

Question 4G. Can you tell the committee the status of any unfilled Senate confirmed positions? How close are you to having these positions filled?

Answer. Currently candidates are being sought for the Associate Director of the Bureau of State and Local Affairs. A short list has been developed and we anticipate that a nominee will be identified in the very near future. Confirmation is pending for the nominee Deputy Director for the Office of Demand Reduction: Patricia McMahon. The Senate Committee on Labor and Human Resources intends to hold a hearing on the nomination shortly. A candidate has been selected for the position of Deputy Director for the Office of Supply Reduction who is in the process of being vetted by the Administration.

Question 5A. Mr. McCaffrey, in fiscal year 1997, the federal government will spend $15 billion on the fight against drugs. Recently, however, the GAO reported to Congress this past March, that although we've demonstrated some positive results, there needs to be more research done on understanding the elements of effective prevention and treatment programs. In your submitted testimony, you mention that in fiscal year 1998, the National Institute on Drug Abuse is requesting $522 million for this type of research.

Can you briefly describe this research and when you expect some initial results?

Answer. NIDA is conducting a wide variety of prevention and treatment research projects that will be supported with the requested funds. Of the total $522 million requested for NIDA, $217 million are for projects that support Goal 1 of the Strategy (i.e., prevention); these include:

—*Neurobiology of Addiction.* This is continuing research on the neurobiological mechanisms for drug abuse that sparked the search for the brain's opioid receptors and their natural ligands.

—*Drugs and the Brain.* Advances in molecular biology and neuroimaging have allowed researchers to visualize the effects of drugs on the brain and to use drug probes to specify where drugs go in the brain, how long they remain there, and how long brain dysfunction remains after drug use ceases. These techniques will ultimately be translated into tremendous improvements in prevention and treatment.

—*Medications Development.* NIDA's top priority remains the development of an effective cocaine medication or "cocaine blocker." NIDA/NIH supported scientists have identified and genetically specified the major receptor site where cocaine works on the brain, and have discovered many of the mechanisms of action both at the receptor and the molecular levels. In addition, NIDA will continue research toward development of potential new therapeutic compounds, and toward development of additional medications for opiate addiction.

—*Determinants of Drug Taking Behavior Among Children and Adolescents.* NIDA is proposing to use the basic science of development to identify the determinants of drug taking behaviors among children and adolescents, and apply these findings to implement effective prevention and treatment approaches.

Of the $522 million requested for NIDA, $307.9 million is for projects that support Goal 3 of the Strategy (i.e., treatment); these include:

—*Treatment Improvement.* NIDA has established major programs to identify, evaluate, and develop pharmacological and behavioral therapies for drug addiction. As the breadth of NIDA-supported research is expanded, they anticipate that novel approaches from such areas as molecular biology, developmental and cognitive psychology, and social learning theory, will present opportunities to improve treatment efficacy.

—*Behavioral Treatments.* Behavioral therapies often remain the only available effective treatment approaches to many drug problems, including cocaine addiction, where there are no viable medications yet. NIDA continues to assess the value of integrating behavioral therapies with medications and to support studies to match specific types of patients to particular behavioral interventions.

—*Health Services Research.* Through this program NIDA is increasing its focus on the organization and financing of drug abuse treatment, especially as it relates to national studies or alternative delivery systems including managed care and managed behavioral health care systems.

—*HIV Infections and AIDS.* The goal of NIDA's research program on HIV/AIDS remains to reduce HIV transmission that is related to drug abuse. NIDA research has demonstrated that drug abuse outreach and intervention programs are highly effective in reducing behaviors associated with HIV/AIDS.

—*Minority Populations.* Racial and ethnic minority groups are disproportionately impacted by drug abuse and its sequelae, including AIDS. NIDA continues to support research to better understand the bases of cultural differences in drug-seeking and use; to develop new and enhance existing outreach/intervention approaches focused on racial and ethnic minorities; and to develop new, and adapt existing, drug abuse treatments shown to be effective with the general population to meet the special cultural needs of racial and ethnic minority groups.

This research is ongoing as are the reporting of results. For example, results are routinely published on NIDA's HIV/AIDS intervention/outreach program that have had great impact on programs around the country. The timing of other results is more difficult to determine. For example, the development of a cocaine blocker is a lengthy and complex process that will involve lengthy clinical trials, peer review, and FDA approval. However, NIDA believes it is on the verge of developing such a medication that should be available within the next ten years.

Question 5B. What do you believe is the likelihood that they will receive all of the $522 million requested?

Answer. We cannot speculate on the likelihood of whether NIDA will receive all of the $522 million requested. However, we fully concur with NIDA on the importance of this research to the nation's health and well being and believe that it is critical to implement the goals and objectives of the *1997 National Drug Control Strategy.*

Question 5C. Will this research, once completed, enable you to make programmatic decisions? How and if not, then why not?

Answer. As this research is completed it will be assessed by NIDA and others on its scientific merit and for its relevancy to programmatic decision making. We fully expect it to provide NIDA's program managers and individual state and local prevention and treatment program managers with valuable input. For example, we expect the development of a cocaine blocker to have tremendous impact on individual programs. Additionally, the research on minority populations, treatment improvement, medications development, HIV/AIDS outreach/intervention, and behavioral treatments are all expected to have significant ramifications for programmatic decisions as existing programs are evaluated and new ideas are tested. The results of this research will be used to evaluate program effectiveness to decide which programs work and which should be discontinued.

QUESTIONS SUBMITTED BY SENATOR KOHL

ONDCP BUDGET REQUEST

Question 1. ONDCP is projecting a budget request in fiscal year 2002 of $23 billion. Based on that projection, it would appear that ONDCP is not anticipating any

success in resolving the drug problem and moving into a maintenance state. Is this a correct analysis of your projected request?

Answer. A federal drug control budget of $23 billion is not a funding level that has been recommended or coordinated through an inter-agency process within the Administration. Although there have been notional discussions of possible fiscal year 2002 funding levels, the Administration has taken no official position on resources that will be required for drug control purposes in fiscal year 2002. We are beginning the process of constructing a five-year drug budget. This will require detailed input from each drug agency and department. For example, to close the treatment gap over the next several years, we will need a comprehensive analysis from the Department of Health and Human Services of the combination of programs to meet this objective, and an annual estimate of resources required to fund these programs. The five-year budget for fiscal year 1999 to fiscal year 2003 will incorporate this analysis and will be included in the *1998 National Drug Control Strategy*.

The drug control program may eventually reach a maintenance state, but that decision has not been made. Conceivably, as the Strategy succeeds in reducing the drug problem in the outyears, the budget could be reduced, except for those resources required to ensure that the drug problem does not return.

Question 2. The Director has requested a desire for a five-year budget process. What exactly is being requested? Would you submit a Presidential request for an advance appropriation? Would drug control agencies be bound by these five-year estimates? If not, how does this request differ from the five-year projections required now?

Answer. ONDCP's five-year budget will be a planning document. It will show funding requested by the President for the coming fiscal year, and anticipated resource needs for each of the four succeeding years. This proposal is considerably broader than current law, providing greater structure to this process and placing a greater responsibility on departments and agencies to participate in long-term planning. Further, this is not a proposal to alter the current appropriations process. No advance appropriations will be requested. Also, funding estimates for agencies may be revised as the five-year plan is updated each year, based on new challenges encountered. For example, the Administration is formulating a plan to provide for greater enforcement at and between ports-of-entry on the Southwest Border. This plan will involve additional resources for the Border Patrol. Initial funding plans covering fiscal year 1999 to fiscal year 2003 may be revised, as the trafficking situation warrants, when the Administration presents its drug control plan for fiscal year 2000 to fiscal year 2003.

Question 3. Could publishing five-year budget projections limit the ability of agencies to reflect programmatic successes indicated by a leveling or reduction in spending? Wouldn't this send a signal to those profiting from drug trafficking and sales where the emphasis is moving or weakening?

Answer. Although the White House will have significant program detail associated with the five-year drug budget plan for each agency, and this information will be available to the Congress, published public documents will aggregate much of this information. This should mitigate the potential problem of signaling particular program changes in the outyears to our drug trafficking adversaries.

Question 4. Under the projected increased allocation to the Drug Strategy, goals will be changed. Please explain how the projections for this reallocation were developed?

Answer. The basic five goals of the Strategy have not changed. In fact, the goals are being proposed for a decade-long approach to confront America's drug problem. By way of background, funding used to be presented by major function, rather than by Strategy goal. Now ONDCP publishes spending estimates by both major function and by Strategy goal. Funding by goal is principally associated with the following spending functions:

Goal 1—Prevention
Goal 2—Domestic Law Enforcement
Goal 3—Treatment
Goal 4—Interdiction
Goal 5—International and Domestic Enforcement

PHARMACOLOGICAL AND BEHAVIORAL TREATMENTS

Question 1. I have read that the National Institutes of Health are establishing programs to identify, evaluate, and develop pharmacological and behavioral therapies for drug addiction. Are these approaches similar to the programs and pharmacological aids provided for nicotine addition?

Answer. Treatment for nicotine addiction generally embraces two modalities: medications (nicotine polacrylax gum and nicotine transdermal patch) and cognitive behavioral interventions. Treatments for drug addictions are similar to that of nicotine treatment, but because of the complexities of poly-drug abuse, the success rates are not as profound.

For the treatment of opiate addiction, methadone has been the medication of choice since 1964. In 1990, LAAM (1-alpha-acetyl-methadol) was approved for treatment of opiate addiction as well. Both medications prevent withdrawal symptoms and drug hunger as well as blocking the euphoric effects of short-acting narcotics such as heroin. Methadone must be given once in a 24-hour period, while LAAM is a longer acting medication requiring dosing every 48 hours. Research has demonstrated increased effectiveness when medication therapy is combined with psychotherapy and life skills training. Naltrexone also has been shown to be effective in the treatment of opiate addiction. Marketed as Rivia, naltrexone has recently been shown effective in treatment of alcohol addiction.

For the treatment of cocaine, research continues with buprenorphine. This medication is a partial agonist—a synthetic opioid that has been found to reduce both opiate and cocaine use in patients who abuse both substances. Critical in the treatment of cocaine addiction are the "cuing techniques"—the concept of recognizing cravings and devising methods of reducing cravings without relapse. New medications being tested include bromocriptine and buproprion which work on the brain's dopamine system to treat cocaine dependence.

ONDCP through C–TAC is funding research on the following: the development of catalytic enzymes that produce cocaine antibodies in the blood stream; the investigation of a family of NIDA compounds to block the effects of cocaine in the brain; state-of-the-art equipment to improve our understanding of drug addiction and the human brain; development of a national research tool that monitors the effectiveness of substance abuse treatment programs; development of advanced treatment technologies for court diversion of juvenile offenders with drug problems; research on alternative treatments to cocaine through the development of novel compounds for use as medications; and research on auricular acupuncture to treat cocaine problems.

Question 2. If these therapies are not like the nicotine aids, how do they differ, and what success rate are we seeing for these types of the therapies?

Answer. The success rates for methadone are excellent. Methadone has been shown to be medically safe to use and has been studied for more than 20 years. Success rates rose after a 1993 study by Dr. John Ball at the Addiction Treatment Center in Baltimore demonstrated appropriate dosages of methadone is a matter of individualization, not legislation. NIDA is currently testing a prototype instrument that enhances methadone treatment. The "Vocational Readiness Screener" is designed to quickly and reliably assess methadone treatment patients' employability and evaluate their vocational barriers and needs.

All medication therapies are enhanced when used in combination with counseling and other social and medical services for the treatment of addiction to any illicit substance. Because of the complexity of the action of drugs on the brain, developing appropriate and tolerable medication therapy is a long, arduous process. Research has shown that the use of a systematic incentive program involving social support, education about drug-free recreation, vocational support, and monitored medication therapy appears to be very helpful in initiating drug abstinence. Relapse prevention services provide the additional structure and skills that have been proven effective for individuals with high rates of cocaine use. Successful research results have also been obtained through a "harm-reduction" approach. This assists the client in making gradual life style changes, combined with abstinence and decreased risks are considered steps in the right direction.

INTERDICTION

Question 1. The Federal budget for drug abuse control climbed from $1.5 billion in fiscal year 1981 to about $15 billion in fiscal year 1997 (GAO Observations on Elements of the Federal Drug Control Strategy GAO/GGD 97–42, March 197). Yet according to a GAO study (GAO 97–42 p. 12), the amount of cocaine and heroin seized between 1990 and 1995 has had little impact on the availability of illegal drugs in the United States. Why is this?

Answer. Cocaine seizures outside the United States have remained fairly steady (between 150 and 200 metric tons), over the 1990–1995 period (*The NNICC Report, DEA–96024,* August 1996, p. 5). While cocaine is widely available and prices have been decreasing, without these seizures an even greater supply of cocaine would depress prices further, consequently encouraging current consumption by the existing

cocaine users and causing increased rates of initiation into cocaine use by non-users (increased incidence). Also, seizures and reduced domestic availability are not the only means by which drug interdiction raises prices as a way to affect current consumption and incidence.

Disruption and denial of traditional drug trafficking routes force the smuggler to shift operations to new areas, or different modes of transportation, thus raising the cost of doing business. The intent is to drive up the street-price of the drug in the United States and decrease consumption. The recent destruction of the air-bridge between South American source countries is an example of an operation whose effectiveness cannot be measure by seizures. It appears that these operations, although not focused toward seizures, have pressured the smuggler into more expensive, and slower, riverine operations. The effect on street price and availability is still being researched.

Question 2. According to a GAO Study (GAO 97–42), when confronted with threats to their activities, drug trafficking organizations use a variety of techniques to quickly change their mode of operations, avoiding capture of personnel and seizure of illegal drugs. What kind of flexibility is incorporated into interdiction efforts to meet the rapidly changing drug trafficking organization activity?

Answer. Technological improvement can increase the flexibility and responsiveness of our interdiction effort. The extensive range and wide area Relocatable Over the Horizon Radar (ROTHR) systems can be used instead of older fixed radar sites to keep initial detection and other sensor assets mobile. Sensor capabilities can be improved by equipping aircraft and surface vessels with state-of-the-art radar for initial detection and further classification, as well as infrared and low-light devices for identification and sorting. In addition, technology improvements and sharing will enable intelligence systems to sort targets from among the large amounts of "background noise" and legitimate traffic in a region.

In the area of intelligence, ONDCP sponsors an interagency working group to review cocaine movement on a quarterly basis and provide an assessment to the interdiction and law enforcement communities. This group's assessment of changes in routes, modes, and methods is key to a flexible interdiction program. The interagency working group produces a semiannual report with mid-period updates. Under ONDCP's lead, a similar interagency mechanism is being established to assess other illegal narcotics transiting to the U.S.

Operationally, our interdiction forces respond to these intelligence assessments through the Joint Interagency Task Force (JIATF) structures. The JIATF's receive and analyze raw intelligence and law enforcement information from a variety of U.S. agencies and international intelligence sources in an attempt to develop short range estimates of trafficker intentions. Once refined and developed, an analysis of the information is shared with the other U.S. interdiction and law enforcement agencies.

In the area of regional coordination, we continue to work closely with our Caribbean neighbors in cooperative efforts to guard the approaches to Puerto Rico, deny traffickers safe havens in the region, and assist the nations to reinforce both their democratic institutions and their ability to withstand the influence and corruption of international criminal trafficking organizations. We currently have bilateral counternarcotics agreements in place with 17 countries in or bordering the Caribbean which substantially increase the flexibility of U.S. and host nation forces to pursue and apprehend traffickers. Also, the U.S. Coast Guard and the Mexican Navy has developed procedures for the quick exchange of maritime interdiction information to allow forces operating in proximity of each other to respond rapidly to trafficker operations.

The threat along the Southwest Border, both at ports-of-entry and in more rural areas between ports-of-entry, is a major concern of the law enforcement officials assigned to this area. To better shield our borders from the threat of illicit drugs, we have significantly increased the deployment of federal law enforcement personnel and assets and are improving the coordination and information sharing structure along the border.

Recent changes to Unified Command Plan and corresponding changes to the National Interdiction Command and Control Plan will further enhance U.S. interagency and multilateral interdiction coordination. The movement of U.S. Southern Command headquarters to Miami and assumption of detection and monitoring responsibility for all of the north-south production areas and most major trafficking routes within the Western Hemisphere will support our efforts.

Finally, each quarter the Joint Chiefs of Staff, Operations Directorate and the United States Interdiction Coordinator sponsor a conference to brief the senior interagency law enforcement and support staffs on the status of the counterdrug efforts. This review provides an interagency forum for the interdiction operations and

intelligence agencies to review the current threat, assess force laydowns and ongoing operations, identify gaps and shortfalls and adjust policies and resources as required. Other planning conferences and ad hoc interagency meetings occur throughout the year to assess and adjust policy and resources.

ONDCP MANAGEMENT

Question 1. At last year's hearing, the ONDCP Director stated, "I owe you results not rhetoric." The Director also said that he was going to appear before the Appropriations Committee in 1997 and demonstrate in concrete ways what ONDCP has achieved with the money the Committee has provided. What can ONDCP show that will demonstrate ONDCP's achievement?

Answer. ONDCP has, in the last year, set in motion a number of concrete objectives which have revitalized the government's efforts to counter drug abuse. Most notably, ONDCP developed for the President the nation's first long-term counter drug strategy. The *1997 National Drug Control Strategy* is the baseline document for the nation's next decade of combating drug abuse in America. To support and implement this long-range vision, ONDCP is in the process of developing a five-year budget to support a long-term strategy. This will allow us as a nation to quickly shift resources to target emerging trends with a flexibility which has been lacking in the past.

This comprehensive five-year budget planning system will be supported by specific performance measures and targets for each Goal and Objective of the *National Drug Control Strategy*. To further this effort, ONDCP and OMB issued a joint memorandum to the Cabinet on June 5, highlighting the importance of this approach and citing ONDCP's efforts as a model for long-term planning. With this new performance measurements system, consistent with the principles of the *Government Performance and Results Act*, ONDCP will be able to link funding for particular programs with desired outcomes under the *Strategy*. Performance targets and measures continue to be developed cooperatively with drug control agencies during fiscal year 1997, and ONDCP expects initial implementation of this system during fiscal year 1998. By then, Congress will have preliminary objective measures to assess the successes or failure of important drug control program components.

ONDCP has also achieved impressive results in a number of other areas. Along the Southwest Border, ONDCP is leading the effort to develop a common effort among various agencies. In the area of intelligence architecture, we are spearheading a major initiative to reform our various information gathering systems so that redundancy is eliminated and key data reaches the right people at the right time. The Peru "big idea" under development will provide a package of incentives to coca growers as well as development programs to sustain last year's 18 percent drop in coca production in Peru. ONDCP held two methamphetamine conferences on both a regional and national scale which brought together experts from law enforcement, prevention, treatment and policy to coordinate techniques against this emerging drug threat. ONDCP has also developed a proposal for a Youth Media Campaign to target children with anti-drug messages during their prime viewing time in terms that they understand.

Question 2. In a 1990 report (Drug Interdiction: Funding Continues to Increase but Program effectiveness is Unknown, GAO/GGD 91–10, Dec. 11, 1990), GAO pointed out the difficulties in measuring effectiveness of drug interdiction activities.

In a 1993 report on preauthorization of ONDCP, GAO found that national strategies contain inadequate measures for assessing the contributions of component programs for reducing the nations drug problem.

In authorizing ONDCP in 1993, Congress specified that ONDCP's performance measurement system should assess changes in drug use, drug availability, the consequences of drug use, drug treatments capacity, and the adequacy of drug treatment systems.

The fiscal year 1997 National Drug Control Strategy, once again addressed the need to assess programs and to provide performance measures. I am concerned that this is more of the same. Why haven't measures been provided before and why should the Subcommittee expect that ONDCP will produce the measures now?

Answer. Developing performance measures that encompass more than 50 federal agencies, 54 states and territories and 31 foreign countries requires a tremendous effort by ONDCP and all of the agencies involved. There is no precedent or model anywhere for measuring such a diverse, complex and widespread level of activity. ONDCP began its performance measurement effort in 1994 by setting up a pilot project to measure the effectiveness of its international programs. After setting up the program and providing training to the agencies, measurement of programs began in 1995.

This effort produced standardized measurement definitions and methodologies, identification and description of all international programs, draft performance measures, assessments of program accomplishments and a relational database incorporating all international programs. From the pilot program we learned that we had to streamline and simplify our measurement process. Based on lessons learned, we developed a new architecture and approach for measuring the entire *National Drug Control Strategy*. In June 1996, we set up three, two-day offsites to test out the new measurement architecture and to begin development of targets and measures for the *1996 National Drug Control Strategy*. Federal, state and non-government representatives attended these meetings. A more permanent interagency process was established afterwards. Steering groups were developed for each Strategy Goal and working groups for each Strategy Objective. The Objectives in the 1997 Strategy continued to be revised, as a result the interagency groups continued to meet through April 1997 to complete their work, which now must be reviewed by senior ONDCP and Department officials before submission to Congress this fall.

INTERNATIONAL INTERDICTION

Question 1. What type of flexibility is ONDCP and the drug control agencies providing in the development of drug interdiction programs to ensure they can meet the existing drug trafficking methods?

Answer. Effective interdiction requires establishing defense-in-depth from the source countries, transit zone, and along our borders, in concert with our regional allies. Although all U.S. drug interdiction agencies contribute throughout our defense-in-depth force structure, JIATF-South concentrates in the source countries, JIATF-East in the outer layer of the transit zone, the U.S. Coast Guard in the middle layer, and the U.S. Customs Service and Border Patrol in the arrival zone.

Within the transit zone, actions against narcotics trafficking are reactive. Traffickers initiate the move of illicit drugs along routes and modes of transportation of choice. They also have a demonstrated capacity to adapt to bypass law enforcement interdiction efforts in the region shortly after they are initiated. In addition traffickers employ off-the-shelf technology, such as commercially available Global Positioning Systems, to reduce the need to communicate when making a rendezvous. Technology, accurate intelligence data, and good analysis are way to ensure our interdiction efforts are as flexible as the traffickers' smuggling efforts.

As discussed above in the answer to A2, the technological improvements can greatly increase the flexibility and responsiveness of our interdiction effort.

Question 2. On April 28, 1997, The Speaker of the House told Latin American Heads of States that the United States should scrap its system of certifying governments, as either effectively fighting drug trafficking or failing to do so. Earlier, Mexico's President Ernesto Zedillo said, "Claiming that other countries are the problem does not stop a single transaction." How does ONDCP respond to questions about the U.S. certification system and does ONDCP believe that certification provides an effective tool to combat drug trafficking activities?

Answer. The drug certification process provides one tool among many to help reduce the flow of illegal drugs across our borders. The sections of federal law which provide a foundation for the certification process require two major actions. They require the Administration to report annually to Congress about the nature of cooperation between the United States and the major drug producing and transit countries, and they require non-discretionary penalties to be imposed against major drug producing and transit countries which are not certified.

Congress is correctly concerned about the impact of illegal drugs in the United States and has enacted legislation which requires a formal report about the state of affairs each year. Considering the increasing importance of our bilateral drug control relationship with key countries such as Mexico, an indepth annual report may be insufficient for Congress to express its views and work constructively with the Administration to confront the drug threat.

The penalty provisions of the certification process should be evaluated pragmatically. If they cause major drug producing or transit countries to take action to meet the counterdrug objectives of the 1988 U.N. Drug Convention, then the penalties are doing what they were designed to do and should be kept. If the automatic penalties are not effective, we ought to consider alternatives.

It is not clear what the penalties have accomplished to advance U.S. drug policy objectives. In many cases decertification or the threat of decertification has served our national interest well by causing countries to take action against drugs they would not otherwise have taken. Nonetheless our certification procedure is perceived by many, especially in Latin America, as unacceptable international arm twisting

and interference in internal domestic affairs. For example, the certification process was condemned recently at the OAS General Assembly in Lima.

There is a case to be made that the certification process causes a backlash against the U.S. in some countries that makes cooperation on drug policy less likely rather than more likely. The effectiveness of the certification process varies from country to country depending on what leverage is available to us because of the penalty provisions, the political and economic conditions in the country, and the capacity of the country to act against drug trafficking under any circumstances. It is clearly in our interest to study this complicated question carefully before we act.

Question 3. In reviewing the activities of the Mexican and Colombian governments, how do they vary in their attempts to eradicate drug trafficking activity in their countries?

Answer. At the strategic level, the Government of Mexico is committed to fighting against drug trafficking and its corrupting influence. Mexico's counterdrug strategy seeks to attack all phases of the drug problem, from production to consumption. During 1996, the Mexican Congress approved changes to their criminal code and amended regulations to toughen enforcement against money laundering and chemical diversion. They passed an organized crime bill which authorizes use of modern investigative techniques, such as electronic surveillance, witness protection, and prosecution for criminal association and conspiracy. Mexico has established with the U.S. a High-Level Contact Group on narcotics control to explore joint solutions to the shared drug threat, to coordinate the full range of drug issues and to promote closer law cooperation. Mexico has acknowledged the need to strengthen counterdrug capabilities, given the serious threat posed by organized crime, and signed several technical, training and material support agreements with the U.S. as well as one on operational coordination. This High-Level Contact Group effort most recently yielded the "Declaration of the U.S.-Mexican Alliance Against Drugs," signed by Presidents Clinton and Zedillo in May 1997. The Mexican Constitution prohibits extradition of Mexican nationals except under "exceptional circumstances," though Mexico has extradited U.S. citizen and citizens of third countries to the U.S. in the past. However, President Zedillo approved findings of "exceptional circumstances" in the cases of three fugitives with court-upheld claims to Mexican citizenship, thereby permitting their extradition to the United States. In 1996, Mexico extradited thirteen fugitives to the U.S. and expelled two others.

At the tactical level, however, results are more mixed. Mexico has continued an aggressive eradication program against opium poppy and marijuana. Drug seizures, lab interdiction and drug-related arrests all increased in 1996 as compared to 1995. Mexico intensified its investigations of criminal organizations linked to drug trafficking, making several prominent arrests. Interdiction activities resulted in a notable reduction of detected air shipments of illicit drugs in high-speed aircraft in the past year, though traffickers quickly shifted more of their operations to maritime smuggling.

On the other hand, Mexico continues to struggle with the effects of corruption. Government of Mexico law enforcement authorities and military personnel have not dismantled any major drug trafficking organizations. President Zedillo acknowledged that corruption was deeply rooted in Mexican institutions and in the general social conduct of the nation. Attorney General Lozano dismissed over 1,250 officials for incompetence and/or corruption. Mass firings of state and local police also took place for various crimes and dereliction of duty. The Director of the INCD (the Mexican "Drug Czar") was arrested in January 1997 on charges that he was receiving money from a Mexican drug lord.

In Colombia, the U.S. continues to support and receive good cooperation at the tactical level. In 1996, military-police cooperation improved substantially, allowing a massive eradication and lab interdiction operation in an insurgent-infested area. The National Police also eradicated opium poppy. Colombian security forces interdicted cocaine and heroine shipments to the U.S. and Europe and destroyed more than 850 narcotics laboratories. The Colombian Air Force participated in 662 coordinated counterdrug operations (with the police, army, and marines), and launched 172 intercept/interdiction missions against narcotrafficking aircraft resulting in 34 losses of trafficking assets. The Air Force also provided airlift support to the National Police and transported herbicides to police forward operating bases. Colombia's Special Search Group, composed of specially-trained police and military personnel, kept pressure on narcotrafficking organizations through searches and seizures, causing several lower echelon leaders to turn themselves in. The Police confiscated and deciphered computers and documents leading to further confiscations. The Police also seized more than 100 trafficker properties whose assets could run into the tens of millions of dollars. The government of Colombia shared with the U.S. information on money laundering activities which was used to identify and economically

isolate trafficking enterprises through U.S. sanctions imposed pursuant to the International Emergency Economic Powers Act. Colombian cooperation with international law enforcement entities, including intelligence sharing, is excellent.

Nevertheless, shortfalls at the strategic level continue to undermine efforts at the tactical level. The Rodriguez Orejuela brothers (leaders of the Cali Mafia) received shamefully light sentences (though Miguel subsequently received a longer sentence on other charges). Other traffickers have also received light sentences. The traffickers continue to manage their drug empire from prison. The three Ochoa Vasquez brothers, kingpins of the Medellin Cartel, were all released from prison after serving sentences of only about 4.5 years each. President Samper was exonerated by the Colombian Congress of charges of corruption, though his campaign manager and treasurer were both convicted on the same charges. Attorney General Vasquez Velasquez was removed from office for corruption. The Colombian Congress did pass critical asset forfeiture, anti-money laundering and penalties enhancement laws, but only after a wire tap revealed the efforts of the jailed Cali Mafia kingpins to bribe and/or intimidate legislators. In 1997, the Congress completed the first half of a process to amend the Constitution to reinstate extradition of Colombian nationals, but the bill is so full of restrictions that it would be useless in practical terms. We are urging Colombia to remove the restrictions in the second half of the process. The Congress is currently considering a bill that would favor sitting or former members of Congress convicted of illicit enrichment or other corruption charges. While acknowledging that alternative development is critical to the success of the eradication program, Colombia has not fully funded its alternative development program, and has applied it mostly in opium poppy growing areas, as opposed to coca growing areas where the vast majority of the eradication operations are taking place.

TRENDS IN DRUG USE

Question 1. Last year, the Substance Abuse and Mental Health Services Administration reported that there was a 50 percent decline in illegal drug use among Americans between 1979 and 1995. What has influenced this dramatic drop?

Answer. Although no definitive study exists that looks at the drop in demand between 1979 and 1995, we hypothesize that a number of social factors raised citizens' awareness which contributed to the dramatic drop. First, schools during that time period had approximately 40 percent more funding dollars to target drug issues, specifically the Safe and Drug Free Schools Program. Second, the media was very active and had a high reporting rate (93 percent higher than they do in 1997) on drug issues and their consequences. Third, large anti-drug multi-media advertising campaigns were initiated. Specifically, the Partnership for a Drug-Free America launched its advertising campaign in 1987 with the equivalent of $115 million in advertising dollars. In 1991, a height was reached in advertising dollars of $365 million, or $1 million a day, which has since decreased to $260 million in 1996. (Lloyd Johnston, Keynote Speech, 1997 Safe and Drug Free Schools Annual Conference—*Turning Research into Action*.)

Question 2. 1991 and 1992 marked the lowest reported illegal drug usage among adolescents in the past 6 years, according to a 1996 University of Michigan study of "Past 30 Day Drug Usage" by 8th, 10th, and 12th graders. What accounted for the low and what is influencing the climb in usage among these teenagers?

Answer. The social factors attributed to the overall decrease in drug use among Americans between 1979 to 1995, i.e., higher federal program funding, high media reporting rate on drug issues, focused media campaigns, can also be attributed to the lowest rates described in 1991–1992 by adolescents.

What changed between 1992 and 1996 to increase drug use among young people includes: the decreased drug prevention programming in the early 1990's; decreased media reporting of the drug issue (between 1991 and 1993, the media had a 93 percent drop in the coverage of drug issues and their consequences); declining multimedia anti-drug advertising which gave Americans the sense that the so-called "Drug War" had been won; pro-drug music and media-including the very-visible cigarette smoking by young actors and artists; and parents not talking to their kids about the ills of drug use and abuse. Also, effective prevention requires a sustained and consistent message which declined in the late 1980's.

As the Monitoring the Future study indicates, there is a strong relationship between attitudes and drug use. Prior to 1990, drug use disapproval rates were consistently increasing, the perception of youth of the risk of drug use was consistently increasing each year, and at the same time, drug use decreased at a significant and reverse rate.

In just three years, 1990, 1991, and 1992, the data show that as the risk perception and attitudes about drug use weakened—a similar but inverse increase occurred in drug use beginning in 1992 and steadily increasing through 1996.

According to the Partnership For a Drug Free America's Attitude Tracking Study, driven by increasingly lax attitudes about marijuana, America's teenagers are seeing fewer risks and more personal rewards in drug use, and drug-savvy baby boomers are underestimating the threat of drugs and drug use among their own children. (Partnership for a Drug-Free America, *Adolescent Drug Use Likely to Increase Again in 1996; Teens See Fewer Risks in Marijuana and Drug Use,* Press Release, 2/20/96.) According to the study, teens are less likely to consider drug use harmful and risky, more likely to believe that drug use is widespread and tolerated, and feel more pressure to try illegal drugs than teens did just two years ago. Changes in attitudes drive changes in behavior. The study found that in a wide variety of categories, teenagers see significantly less physical and social risks in marijuana and drugs, and perceive more benefits in drug use, that is, more teens believe drugs help you relax and that getting high feels good. Increasingly, teens see marijuana as "no big deal" which is driving their overall changing attitudes about drug use. Also, pre-teens remain defiantly anti-drug but report more drug use around them.

Question 3. How is the 1990 low, and subsequent rise in drug related emergency room cases related to these usage trends?

Answer. The Drug Abuse Warning Network (DAWN), administered by NIDA, monitors the number and pattern of drug-related health emergencies and drug-related deaths in major metropolitan areas. DAWN data are collected in 21 metropolitan areas from hospital emergency rooms and medical examiners. DAWN is an indicator of drug use consequences and not a prevalence of drug use indicator, therefore it cannot adequately be compared to other drug usage trend data.

Emergency room mentions for cocaine increased from the first quarter of 1986, reached a peak around the first quarter of 1989, declined steadily through most of 1990, and then climbed again during 1991. Medical examiner reports followed a similar trend. Both of these trends varied inversely with the standardized price. (ONDCP, *Price and Purity of Cocaine, The Relationship to Emergency Room Visits and Deaths, and to Drug Use Among Arrestees,* 1992.) That is, as the price went down between 1986 and 1988–89 (the low), emergency room mentions increased as did medical examiner reports. And as the price reversed and increased to a high in 1990, the number of emergency room mentions were at their lowest.

The inverse relationship between the standardized price of cocaine, emergency room mentions, medical examiner reports, and arrestees who tested positive for recent cocaine use, suggests that cocaine use and consequences increase as the standardized price rises. That all three measures decline when the price rises indicates that these patterns might be attributable to the changes in the supply of cocaine. (ONDCP, *Price and Purity of Cocaine, The Relationship to Emergency Room Visits and Deaths, and to Drug Use Among Arrestees,* 1992.)

As cocaine on the street becomes scarce, users will bid more for the cocaine that is still available. This drives up the price of cocaine, which in turn reduces the quantity used. Conversely, when more cocaine is available for sale, drug dealers will lower prices to induce users to increase their drug use. Therefore, as the price of cocaine falls, drug use increases. This explanation of how supply-side induced changes can affect drug use is consistent with the patterns observed in these data. In addition, while the DAWN data are not indicators of prevalence, it is conceivable that the negative consequences associated with drug use would be influenced as rates of prevalence increase or decrease.

In contrast, as demand for cocaine falls both prices and the amount would be expected to fall. Yet, the expectation based solely on changes in demand for cocaine is not consistent with the patterns observed in these data. Consequently, changes in demand alone do not explain the observed patterns between the standardized price of cocaine and emergency room mentions, medical examiner reports, and the percentage of arrestees testing positive for cocaine. (ONDCP, *Price and Purity of Cocaine, The Relationship to Emergency Room Visits and Deaths, and to Drug Use Among Arrestees,* 1992.)

Question 4. The University of Michigan also reported that illegal drug use among 8th graders has increased a shocking 150 percent over the past five years. Is there a direct correlation between marijuana use among this age group and future abusive drug or alcohol behavior?

Answer. Yes. According to a study conducted by the Center on Addiction and Substance Abuse at Columbia University, children who smoke marijuana are eighty-five times more likely to use cocaine than peers who never tried marijuana. (J.C. Merrill, K. Fox., S.R. Lewis, and G.E. Pulver, *Cigarettes, Alcohol, Marijuana: Gateways*

to Illicit Drug Use, Center on Addiction and Substance Abuse at Columbia University, 1994.)

In addition, we also know from the Monitoring the Future study that there is a two year delay between youths' disapproval of drug use, youths' perception of using drugs as a risk, and drug use. We see an inverse relationship occur over a few years—as the risk perception and attitudes about drug use decrease—specifically between 1990 and 1992, a similar but inverse increase occurs in drug use between 1992 and 1996.

Question 5. What factors are influencing this relationship, despite our current preventative efforts?

Answer. A number of factors are influencing this relationship. In particular, the availability of drugs, and a general lack of social bonding to either the family or the community.

As discussed above, according to the Partnership For a Drug Free America's Attitude Tracking Study (PATS), teens today have more casual attitudes about marijuana, they see fewer risks and more rewards in drug use. Also, the parents of today's teens underestimate the risk and harm of drugs and drug use among their own children. (Partnership for a Drug-Free America, *Adolescent Drug Use Likely to Increase Again in 1996; Teens See Fewer Risks in Marijuana and Drug Use,* Press Release, 2/20/96.) Teens today believe that drug use is widespread and tolerated, and experience more peer pressure to try illegal drugs than did teens two years ago. Marijuana is not viewed as dangerous by teens and this view is effecting their overall attitudes about drug use. Pre-teens remain defiantly anti-drug but report more drug use around them.

Most parents don't want their children experimenting with drugs and some feel hypocritical when talking to their kids about marijuana. While more parents say they are talking to their teens about drugs today (95 percent), only 77 percent of teens say their parents have talked to them. (Partnership for a Drug Free America, *Partnership Attitude Tracking Study,* 1995.)

Question 6. Does ONDCP have any predictors which offer a forecast as to future adolescent trends for alcohol and drug use?

Answer. ONDCP reports out data as collected and analyzed by other federally funded drug-control agencies and other organizations that conduct relevant data collection efforts.

There are three indicators from the Monitoring the Future study that when looked at together are critical predictors of the relationship between prevailing attitudes and drug use. The indicators are: (1) youth disapproval rates of regular use of drugs; (2) youth perception that regular use is harmful; and (3) the percentage of youth who have used drugs in the last 30 days. (University of Michigan, *Monitoring the Future Study,* 1996.) What these three indicators show over time is a distinct relationship between youth disapproval rates of regular use of drugs, youth perception that regular use is harmful, and the percentage of youth who have used drugs in the last 30 days. These indicators have shown a distinct trend over time. As disapproval rates show a decrease at one point in time, the perception of drug use as harmful decreases one year later, and in the following year, a distinct and significant increase in drug use is observed.

METHAMPHETAMINE

Question 1. Is there a relationship between our cocaine interdiction efforts and the increase in methamphetamine production and usage?

Answer. Methamphetamine has a similar effect to cocaine but is cheaper than cocaine (½ the price) and creates a longer lasting high (hours versus minutes). It can be produced inexpensively by clandestine labs. Precursor chemicals to manufacture this drug are easy to obtain. The manufacture of methamphetamine is a relatively simple process and can be carried out by individuals without special knowledge or expertise in chemistry. It is becoming the drug of choice, especially in areas where the availability of crack and cocaine has decreased.

Question 2. Can ONDCP offer a forecast for the future trend of methamphetamine in America?

Answer. Drug use behavior is a complex phenomenon for which the prediction of future trends is particularly difficult. With respect to methamphetamine, there have been several predictions since the mid 1980's of impending epidemics that did not materialize (i.e., 1986, 1988, 1989, 1991, and 1993). In 1996, primarily on the basis of data for 1995 from the Drug Use Forecasting (DUF) program and DAWN, a new epidemic of methamphetamine use has been predicted. These data showed high rates of methamphetamine use among arrestees in the West, Southwest, and Midwest, and increased methamphetamine-related emergency room episodes in the

same areas, suggesting that methamphetamine use was on the rise and spreading from its endemic base of Hawaii and San Diego to other areas. However, data for 1996 from the eight DUF cities with the highest rates of use in 1995 indicate that while methamphetamine use continued to be detected among arrestees mainly in the western U.S. DUF sites, rates fell significantly (as much as 50 percent) from 1995 levels. Data for the first half of 1996 from DAWN are about to be released and are expected to show similarly significant declines in methamphetamine-related emergency room episodes. The bottom line to be drawn from these data is that it is too soon to predict the future direction of methamphetamine use in America. We are encouraged by last year's downturn and we believe that the swift action taken by the Administration and Congress to increase the penalties for trafficking in methamphetamine have had an effect, but we also realize that a forecast cannot be made with one year's worth of data.

Question 3. Mexico has been identified as the principal source for both manufactured methamphetamine and the source of precursor chemicals used for domestic production in the U.S. Does Mexico have a chemical precursor monitoring and enforcement program similar to the U.S. Drug Enforcement Agency?

Answer. Mexico has a precursor enforcement program somewhat analogous to that in the United States. A Mexican law passed in May 1996 establishes chemical trafficking as a crime subject to 5–15 years imprisonment and a fine. In 1996, Mexican law enforcement seized 3.3 metric tons of ephedrine, 10 metric tons of phenylpropanolamine, and 900,000 pseudoephedrine tablets. Regulatory controls also exist on precursor chemicals, but the administrative infrastructure for their enforcement is not as highly developed as in the U.S. Mexico lacks a comprehensive regulatory system to prevent the diversion of essential (as opposed to precursor) chemicals, but is now in the process of formulating legislation in this area.

In terms of cooperative efforts with Mexico, the *U.S. Mexico Bi-National Drug Threat Assessment* published in May 1997 was the first formal agreement by Mexico and the United States on the facts about the criminal activities associated with drugs, and the effects of drugs and drug trafficking and related criminal activities on both societies. Methamphetamine use, production, and trafficking were highlighted in the assessment. Since June 1996, Mexico has engaged with the Department of Justice through the Drug Enforcement Administration to determine a strategy for controlling the import, export, and sale of licit chemicals, for preventing the illicit use and traffic of those chemicals, and for reducing the diversion of chemicals. The U.S. and Mexico Attorneys Generals agreed to identify persons, businesses, and criminal organizations involved in the illegal transport, use, export, and import of chemicals, and to obtain the support and cooperation of other key countries where precursor chemicals are produced, transported, or brokered. Additionally, the *Declaration of the Mexican-U.S. Alliance Against Drugs* signed by Presidents Zedillo and Clinton in May 1997 commits both nations to control essential and precursor chemicals to prevent chemical diversion and illicit use, and improve information exchange on the subject.

The formal mechanism to spur and oversee this cooperation is the Bilateral Chemical Control Working Group under the aegis of the U.S.-Mexico High Level Contact Group for Narcotics Control (HLCG). This working group has coordinated bilateral chemical and clandestine laboratory training, information exchange, cooperation on case investigations, and other matters relating to bilateral cooperation. As part of a joint "Practical Strategy and Action Plan" developed during the summer of 1996, Mexico now has in place restrictions on the entry of methamphetamine precursor chemicals to key ports for more efficient control.

Question 4. Is Mexico contributing to interdiction efforts in controlling the movement of Methamphetamine across our borders?

Answer. Cooperative efforts to control precursor chemicals and to work with Mexico to improve their ability to discover and investigate methamphetamine manufacturing and smuggling operations are underway. Mexico's primary effort to interdict methamphetamine/precursor chemicals is via the Northern Border Response Force/ Operation Halcon. In addition, Mexico has a series of law enforcement checkpoints along many roads leading to the U.S. These checkpoints are intended to seize all contraband (Operation Precos). Mexico has also actively participated in a joint U.S.-Mexico methamphetamine task force focusing on the most significant Mexican methamphetamine trafficking organization. While to date this task force has recorded the seizure of 75 kilograms of methamphetamine and the arrest of 12 individuals associated with this organization, they have not yet indicted or arrested the principals.

The HLCG has significantly advanced bilateral cooperation between the U.S. and Mexico in controlling the abuse, production, shipment, and sale of illicit drugs, to include methamphetamine. The HLCG's *U.S. Mexico Bi-National Drug Threat Assessment* published in May 1997 contributed greatly to a joint understanding of the

drug threat, including methamphetamine, and to fostering a spirit of increasingly greater cooperation in the US-Mexico relationship. The *Declaration of the Mexican-U.S. Alliance Against Drugs* commits both nations to improve our capacity to interrupt drug shipments by air, land, and sea; to enhance cooperation along both sides of the common border; and to reduce the production and distribution of illegal drugs in both countries, particularly marijuana, methamphetamine, cocaine, and heroin. Presidents Clinton and Zedillo also directed development of a joint counterdrug strategy to address these goals by the end of 1997. The strategy will have several key objectives designed to improve ongoing U.S.-Mexican cooperative counterdrug efforts, such as the Bilateral Border Task Forces in northern Mexico which will be jointly staffed by Mexican and U.S. law enforcement and intelligence officers.

Question 5. Is the methamphetamine interdiction and prosecution on the southwest border approached on the same level as cocaine?

Answer. Trafficking of methamphetamines is usually done along established cocaine (and heroin) routes—because the border is controlled by the Mexican drug syndicates. Consequently, interdiction of cocaine will often result in methamphetamine seizures. Prosecution of methamphetamine traffickers is treated just as aggressively as cocaine and the recent enactment of the 1996 Methamphetamine Control Act strengthens the law significantly against methamphetamine production and trafficking. Numerous cases have been investigated and prosecuted by federal agencies in cooperation with local officials. DOJ required each U.S. Attorney to make an assessment of the methamphetamine threat in each district. Strategies and specific activities against the drug were developed in the most severely affected districts. Additionally, DEA Mobile Enforcement Teams (MET) have launched several operations in cities and towns in the region.

Question 6. There has been a recent rise in "Meth" related crime in Wisconsin. Can you explain what factors are in place to cause a rise in this drug popularity?

Answer. Increased use of methamphetamine can result in an increased tolerance for the drug, leading a methamphetamine addict into an array of criminal activities in order to support the habit. Long-term use of this drug often produces symptoms of extreme paranoia and psychosis that can lead to increase in violent behavior. The number of methamphetamine labs has increased due to an increase in profitability. The drug is cheaper to purchase ("poor man's cocaine") and has longer lasting effects. And methamphetamine can be used by all of the common routes of illicit drug administration, e.g., inhalation, intranasal "snorting", intravenous injection, and orally.

Question 7. What actions can be taken to reduce this drug's popularity in the Northern Wisconsin Area?

Answer. Drug testing among personnel in private sector industry, in the military, and among individuals supervised by the criminal justice system can substantially suppress illicit drug use. Intensive localized media campaigns can also suppress drug use by altering attitudes about acceptability of drug use and/or the risks associated with drug use. Education and training for law-enforcement officers about the effects of methamphetamine and more aggressive enforcement efforts can help reduce use, and there is some evidence that methamphetamine users sharply decrease their drug intake following treatment.

TASK FORCE OPERATIONS

Question 1. The 1997 National Drug Control Strategy referenced the gaps that still need to be closed between a number of key agencies to improve drug enforcement intelligence coordination., What is ONDCP's current role and influence in the coordination of drug intelligence?

Answer. ONDCP uses a variety of methods to "influence" expanded drug intelligence coordination, including the issuance of budget guidance and the certification of the drug control agencies' budgets. On a day-to-day basis, ONDCP either chairs or participates in all drug intelligence boards/committees. For example, ONDCP chaired an ad hoc interagency group that reviewed intelligence support to interdiction operations and developed a specific plan for improving that support. That plan, known as the Interdiction Intelligence Support Plan, called for the use of a specific ADP system as the primary tool to deliver intelligence to the interdiction centers. The drug intelligence community has subsequently expanded the use of this system to include use by law enforcement agencies. ONDCP also "influences" the drug intelligence system by tasking the system to provide specific assessments and analyses.

Question 2. What are the current gaps or weaknesses in the intelligence system now?

Answer. While the federal government has made substantial investments in counterdrug intelligence capabilities, there are areas where the information base of

the National Drug Control Program agencies could be significantly improved. The most significant gaps in our drug intelligence system fall generally in two areas: (1) focusing available information in a way that most effectively supports the development of drug policy and related strategies; and (2) processing and disseminating operationally useful information in a timely and effective manner.

ONDCP is working with the Attorney General and the Director of Central Intelligence, as well as other senior officials, to look at the whole drug intelligence effort to ensure that we have the best possible system. This effort will more clearly identify shortfalls and make recommendations for improvement.

Question 3. How can the intelligence alliance be strengthened?

Answer. The interdepartmental review discussed above has been designed to provide us with an assessment of the specific changes and adjustments that need to be made to strengthen our interagency intelligence work.

Question 4. Is the intelligence dissemination in balance with intelligence collection?

Answer. Drug intelligence, perhaps more accurately described as drug information, is collected by a variety of agencies for a variety of specific reasons. Law enforcement officers collect drug intelligence/information as a part of their regular, ongoing criminal investigative activities. Foreign intelligence agencies collect intelligence on a wide range of topics, including leadership, activities and capabilities of foreign-based drug trafficking groups, counterdrug activities of foreign governments, and other traditional foreign intelligence subjects. Because of these differences, it is sometimes difficult to share information across the two disciplines. Over the years, significant progress has been made in expanding the amount of information that is shared but more work is needed. This is one of the weaknesses that an improved Intelligence Architecture will address.

Question 5. Is the intelligence being received by the local, state and federal enforcement agencies timely, reliable and in sufficient detail to be operationally effective?

Answer. Most of the information that is tactically and operationally relevant to state and local law enforcement is collected through their own efforts. They are best able to determine its reliability and adequacy. The direct flow of federal strategic information from federal law enforcement agencies to state/local law enforcement is generally less timely and sometimes of undetermined value to the state, often because the information comes from other geographic areas, perhaps even from overseas. The most effective sharing of information between federal law enforcement and state/local agencies is through joint task forces where the various levels of law enforcement are working together against common targets.

Question 6. In multi-agency operations, statistical overlap often occurs when reporting arrests, seizures, and prosecutions. What mechanism is being employed to keep these reports pure, avoiding redundancy?

Answer. At the federal level, the Federal-wide Drug Seizure System (FDSS) was established to ensure that drugs seized jointly by two or more federal agencies were not counted more than once. The FDSS, which is administered by the Drug Enforcement Administration, publishes annual reports on the seizures by federal agencies of cocaine, marijuana, and heroin.

Question 7. Does this reporting transcend the local, state, and federal enforcement lines?

Answer. There is currently no system that accounts for all the illegal drugs seized by state and local law enforcement agencies around the country. The Federal Bureau of Investigation, through the Uniformed Crime Reporting system, is developing data elements with the UC that would record drugs seized at the local level.

DEPARTMENT OF DEFENSE

Question 1. Will the Department of Defense continue sharing its technological logistical resources with Federal law enforcement?

Answer. Technology developed by the Department of Defense (DOD) for military missions that have a counterdrug application will continue to be available to law enforcement agencies, both federal and state, in the performance of their roles and missions. As appropriate, it will be up to the individual law enforcement agency to plan, budget, and procure required equipment and systems. Logistical and operational support to law enforcement agencies will be coordinated through Joint Task Force Six located in El Paso, Texas.

Small units in the military use equipment that meets needs similar to those of law enforcement. An example of this are night vision devices, developed by Army Materiel Command to enhance the Army's night fighting effectiveness. This application crosses over to law enforcement for night observation and can be adapted to

camcorders. Technology developed by DOD can and should be used in other applications when possible, but should not be developed solely for law enforcement agencies. The responsibility to develop uniquely counterdrug technology should always reside with the end user.

Question 2. Will technological initiatives emphasize serving multiple roles, to be used for different applications, by different agencies?

Answer. Technology innovation frequently has multiple and varying operational applications. ONDCP will continue to encourage the use of innovative advancements in technology for all law enforcement end-users. This task is accomplished through the use of multi-agency coordination panels and joint task forces such as JTF-Six and Operation Alliance.

Question 3. How has the JIATF been working and what is the current commitment of Joint Task Force Six?

Answer. JIATF's utilize and integrate command and control, communication, computer, and information systems to efficiently coordinate operations and intelligence information with other counterdrug centers, law enforcement agencies, and domestic and international counterdrug partners. They collect, fuse, and disseminate counterdrug information from all participating agencies to the detection and monitoring forces for tactical action as well as serve as the focal point for de-conflicting all non-detection and monitoring counterdrug activities within their respective areas of responsibility. The JIATF's provide a valuable service to the drug program by coordinating the participation of DOD assets in drug programs and providing substantial intelligence fusion and operational planning to DOD and non-DOD drug operations. They have significantly enhanced interagency coordination and promoted the seamless integration of agency interdiction forces.

JTF-Six continues to carry out myriad missions in support of federal and state Law Enforcement Agencies. The JTF-Six mission is to provide effective Title 10 U.S.C. domestic counterdrug support as requested by law enforcement agencies—Operational, Intelligence, Engineering, and General—acting as the single point of contact for DOD support. JTF-Six has increased the efficiency and effectiveness of DOD support to domestic drug law enforcement operations by working closely with the law enforcement agencies, HIDTA's, and Operation Alliance.

Question 4. Has ONDCP been able to measure significant gains as a result of these task forces? Is so, where have they been most productive?

Answer. The JIATF's have been very effective bringing appropriate DOD intelligence, technological, and logistical assets to bear on the international drug problem. They also provide a valuable operational planning service that substantially increases the synergy of multi-agency and multinational counterdrug operations.

There are three geographically and functionally oriented JIATF's. They are: JIATF-South at Howard Air Force Base, Panama; JIATF-East at Key West Florida; and JIATF-West at Alameda, California. All three of the interagency task forces integrate command and control, communications, computers, and information systems to efficiently coordinate operations and intelligence information with other counterdrug centers, law enforcement agencies, and their international counterdrug partners. They collect and fuse counterdrug information from all participating agencies and disseminate to the detection and monitoring forces for tactical action. They also de-conflict other law enforcement counterdrug activities within their respective areas of responsibility. Each JIATF has a different regional focus in support of Goals Four and Five of the *National Drug Control Strategy* which address supply side issues.

JIATF-West provides DOD support to law enforcement agencies and country teams in their efforts to disrupt international drug trafficking of heroin and other illegal drugs originating to Southeast and Southwest Asia through the Pacific ocean. JIATF-West has been key in the development and implementation of a regional program to track heroin trafficking. For example, JIATF-West sponsored the Asian Riverine Conference which developed a comprehensive regional course of action for counterdrug waterway management training.

JIATF-South provides support to cocaine source country initiatives, especially detection and monitoring support to source country interdiction programs. Their mission is to execute U.S. national counterdrug policy by supporting federal agencies and participating nations' counterdrug efforts to deter, degrade, and disrupt the production and transshipment of illegal drugs within and from the JIATF-South area of responsibility. JIATF-South sponsored and provided the concept, planning, communications, and logistical support of the highly successful interagency and participating nation operation, Laser Strike. Operation Laser Strike essentially shut down the narcotics air bridge that flew coca base and precursor chemicals destined for the production of cocaine in Colombian laboratories. The disruption of the air bridge for almost two years has decreased the price of coca leaf to a point below profitability

for many coca farmers. This, in turn, led farmers in great numbers to abandon coca and ask for help to convert to licit alternative development. As a result, coca cultivation has decreased by 18 percent in Peru last year.

JIATF-East is the primary center for detection, monitoring, sorting, and handoff of suspect air and maritime drug trafficking events within their area of responsibility. Whereas the other JIATF's concentrate primarily on the regions of illicit drug production, JIATF-East is responsible for interdiction within the transit zone of the Eastern Pacific, Caribbean Sea, Gulf of Mexico, and portions of the Atlantic Ocean. Their mission is to detect and monitor suspected air and maritime drug trafficking activity within the transit zone; handoff this information to appropriate law enforcement agencies; and de-conflict non-detection and monitoring counterdrug activities occurring in the transit zone. Over the last three years, JIATF-East's support to U.S. and participating law enforcement agencies has shown a steady increase in drug seizures. JIATF-East has provided key support to counterdrug operations with DEA in Mexico and Central America, and to the interagency planning and operations of U.S. Customs and the U.S. Coast Guard in the approaches to Puerto Rico and the U.S. Virgin Islands.

Finally, as an internal measure of effectiveness, the Joint Chiefs of Staff, Operations Directorate and the United States Interdiction Coordinator sponsor a quarterly conference to brief the senior interagency law enforcement and support staffs on the status of the JIATF counterdrug efforts. This review provides an interagency forum for interdiction operations and intelligence agencies to review the current threat, assess force laydowns and ongoing operations, identify gaps and shortfalls, policies and adjust resources as required.

Question 5. Will the National Guard and reserve forces continue to support the Southwest Border interdiction effort?

Answer. Support for law enforcement efforts along the Southwest Border continues to be a high priority for the National Guard. The governors of Arizona, California, New Mexico, and Texas received approximately $53.3 million for interdiction and demand reduction support in fiscal year 1997, which is approximately 33 percent of the total fiscal year 1997 State Plans Budget. While the governors can use these funds for support anywhere in the state, they are encouraged to give priority to the Southwest Border. Southwest Border support will be reduced to approximately $40 million due to the reduction in the National Guard's projected fiscal year 1998 State Plans Budget.

During fiscal year 1997 DOD, through JTF–6 and the National Guard, has continued making significant improvements to the Otay Mountain road in southern California. This is in addition to the 30 miles of landing mat fence, barbed wire fence, and post obstacles already constructed in the San Diego area. The average number of DOD personnel including National Guard and other reserve components providing support on the border varies from an average of 1,500 to peaks of 2,500. The DOD programmatic commitment to the Southwest Border is $176.6 million for fiscal year 1997. The President's fiscal year 1998 request is $130.4 million.

Question 6. Is this a regional participation effort or are units from all over the country involved in supporting this program?

Answer. DOD provides a wide range of counterdrug support to federal, state and local drug law enforcement agencies on the Southwest Border. National Guard (Title 32) support is coordinated by the National Guard Counterdrug Coordinator in the state where the support is to occur. Requests for military counterdrug support from federal agencies are prioritized by law enforcement through *Operation Alliance*, which is collocated with JTF–6. Requests by state and local agencies are prioritized by the state lead law enforcement agency.

MEXICO

Mexico's role as a cooperative partner in our drug interdiction efforts remains in question in view of hard intelligence that continues to identify Mexico as the main transit point for the flow of illegal drugs from South America into the United States. Also, Mexico increasingly is a major player in money laundering, production of marijuana, heroin, methamphetamine, prescription drug cloning and manufacturing of illegal chemical precursors.

Question 1. How valid are the Mexican drug enforcement statistics? How have they been qualified?

Answer. Statistics are reported from the Government of Mexico through the United States Embassy in Mexico City. The DEA and the Department of State's Bureau of International Narcotics and Law Enforcement should address the accuracy of the statistics; however, ONDCP can provide an overview. Some of the reporting by the Government of Mexico is independently verifiable (e.g., eradication efforts). Other

categories of data—such as drug seizures and arrests—cannot be completely verified. Seizure data is usually provided by Mexican officials acting as liaison officers with U.S. personnel in Mexico and is compared with intelligence estimates from the same time frame. Often seizures can be verified by U.S. personnel when they are invited to view the seized contraband or are provided detailed reports of specific seizures. Arrests can be verified by reviewing photographs, statements, legal instruments and other documentation accumulated relating to an arrest. The information is distributed to U.S. law enforcement and intelligence agencies so that they can compare the reports with intelligence data and statistics from previous years. Only that data which can be corroborated is considered reliable.

Question 2. Have U.S. drug enforcement personnel been given increased access by the Mexican government, to conduct investigations and surveillance operations in Mexico?

Answer. Although prohibited by Mexican authority from conducting surveillance, DEA's access to Mexican documents, investigations and officials continues to expand. This has enabled U.S. agencies to work more closely with Mexican law enforcement entities involved in counterdrug activity. The DoJ Southwest Border Initiative provides for a regional concept for intelligence sharing, cooperative investigations, and coordinated enforcement activities.

In addition, a cooperative international initiative has been established to create a joint task force concept with Mexican law enforcement officials in the Bilateral Border Task Forces in Mexico. According to DoJ, once they begin operations, the BTF's will offer the best opportunity for intelligence and information sharing between U.S. drug law enforcement agencies and Mexico. U.S. officers will be part of the BTF's along with specially vetted Mexican personnel. U.S. law enforcement agencies are also deeply involved in providing advice, assistance, and training to the Government of Mexico's efforts to reorganize its Attorney General's office and counterdrug enforcement apparatus. U.S. and Mexican cooperation from the operational law enforcement level through the national policy making level resulted in the HLCG's *U.S. Mexico Bi-National Drug Threat Assessment,* published in May 1997. This document marked the first bi-national agreement on the drug threat, and is emblematic of a spirit of increasingly greater cooperation. In the *Declaration of the Mexican-U.S. Alliance Against Drugs,* Presidents Zedillo and Clinton further committed both nations to increased cooperation, including development of a joint counterdrug strategy by the end of 1997.

Question 3. What effect has NAFTA had on trafficking illegal drugs into the U.S.?

Answer. One objective of NAFTA is to reduce barriers to free movement of goods and services between the U.S., Mexico and Canada. NAFTA also aims to increase investment opportunities and joint ventures among countries. Because the volume of commercial trade has grown, this increase has been and could continue to be exploited by drug traffickers. As the flow of money between the countries has expanded, so have the opportunities for the laundering of drug money. Consequently, flexibility and adaptability have become key to the success of interdiction efforts. The U.S. has addressed the growing drug threat by significantly bolstering its enforcement efforts along the border in the years following the creation of NAFTA.

Drug traffickers often have connections with commercial trade-related businesses. These include trucking firms, rail companies, commercial shipping, and the warehousing and storage that accompanies them. Additionally, traffickers can benefit from NAFTA-related transportation infrastructure upgrades such as highways, railways, air links, and ports. By using knowledge of the potential improvements to legitimate trade-related travel, traffickers may also be able to expedite the passage of contraband.

It is expected that privatization of Mexican banks will continue as will the opening of foreign private investment. This can potentially aid money laundering in two ways. First, traffickers can buy bank stocks and seek election to bank boards to facilitate the laundering of their profits. Also, large amounts of U.S. currency could be invested into the Mexican stock market where it could increase in value, then be wired to a U.S. account as clean money. Detection methods of these suspicious transactions are complicated because the transactions can be completed electronically—in some cases from home computers over the Internet.

Although NAFTA does not relax customs inspections, it does stretch current interdiction assets. We are taking action to offset any potential increased risk by:

—Increasing the number of customs inspectors on the border;
—Developing and deploying new, non-intrusive inspection technologies;
—Increasing Border Patrol staffing along the border with improved secure communications and sensor systems;
—Improving operational coordination along the border through Operation Alliance and the Southwest Border HIDTA; and

—Continuing a program of support to law enforcement agencies by military and National Guard units along the border.

These actions have produced solid results. For example, last year seizures of illicit drugs along the Southwest Border increased in terms of both the number of incidents and the weight of captured substances. Specifically, in 1996 narcotics seizures along the U.S.-Mexican border were up 29 percent by number of incidents and 24 percent by total weight over 1995 figures.

Possible additional actions include:

—Further education of law enforcement officials on NAFTA-related provisions, rules, and laws;

—Training of law enforcement officials on potential money laundering schemes involving the Mexican stock exchange;

—Close scrutinization of funds wired to the U.S. from foreign stock markets;

—Continued communication between law enforcement and commerce agencies of cargo loads and modes of transportation; and

—Development of alternate cargo inspection facilities and establishment of guidelines to facilitate inspections.

We are also working jointly with Mexico through the High Level Contact Group to define where we can most effectively combine efforts on the border. The HLCG's May 1997 *U.S. Mexico Bi-National Drug Threat Assessment* provides an excellent, mutually agreed upon description of the drug threat faced by both countries. The *Declaration of the Mexican-U.S. Alliance Against Drugs* commits both nations to 16 counterdrug goals, including improving the capacity to interrupt drug shipments by air, land, and sea; combating corruption; enhancing cooperation along both sides of the common border; better information sharing and coordination between our counterdrug forces; and reducing the production and distribution of illegal drugs in both countries. Presidents Clinton and Zedillo also directed development of a joint counterdrug strategy to address these goals by the end of 1997.

Question 4. Were any drug enforcement efforts compromised as a result of our alliance with General Rebollo?

Answer. A comprehensive assessment of the impact on drug enforcement efforts is being conducted by law enforcement and intelligence agencies. To date, we are unaware of specific information that was compromised. We will be able to answer the question more fully when the assessment is complete but some general comments can be made. Law enforcement agencies have always been very careful in the types and amount of information they share, particularly with Mexico. Information is very specific and focused, and shared through specific, well defined mechanisms with appropriate safeguards. For example, DEA, FBI, USCS, and Mexico initiated establishment of several Bilateral Border Task Forces (BTF's) through which information was to be shared. The BTF's were not yet fully functional, and U.S. officers were not assigned to them at the time of General Gutierrez' arrest. As part of the reorganization of the Mexican Attorney General's office in the aftermath of the Gutierrez Rebollo revelations, all Mexican members of the BTF are being fully vetted by the Government of Mexico, to include background and financial investigations, and periodic polygraph and urinalysis tests.

Question 5. What is the status of Mexico's current drug enforcement organizational effort?

Answer. In late April 1997, President Zedillo directed the reorganization of those elements of the Mexican justice system involved in counterdrugs, due in part to concerns about corruption. The new organizations within the Mexican justice system, the Special Prosecutor for Crimes Against Health and the Organized Crime Unit are designed to be more carefully vetted, far leaner, and more focused than their predecessors. Individuals assigned to these units will be required to undergo a vetting process which will include background and financial investigations, and periodic polygraph and urinalysis tests. The first thirty of the fully vetted individuals began training with DEA in the U.S. on July 14, 1997.

Question 6. Do you foresee relations improving between our respective drug enforcement agencies, which up until now, have been very strained on the operational intelligence and investigative levels?

Answer. While there is extensive corruption in Mexico, there are also many brave, honest, and dedicated individuals fighting the corruption and violence that accompany drug trafficking. Over 300 police were murdered in Mexico last year. Forty-three military personnel died, and 122 were wounded or injured in counterdrug operations. We believe that there are units in these organizations which are fundamentally sound and can be trusted with sensitive information. The degree of trust depends on the relationship that we develop over time in an environment where we will carefully watch the use of U.S. assistance.

At the present time, there is a fairly effective cooperative relationship in effect between Mexican and U.S. law enforcement at the operational level. With the reorganization of Mexico's counterdrug enforcement structures and the institution of vetting procedures for their personnel, we expect that relationship to improve.

We will continue to work at building a relationship of trust and cooperation with Mexican organizations involved in counterdrug activities which have contributed to the fight against trafficking-related violence and corruption. President Zedillo clearly recognizes the menace of drug trafficking, naming it Mexico's number one security threat. His commitment is reflected in the cooperative workings of the High Level Contact Group, and in the Declaration of Alliance he signed with President Clinton in May. The *U.S. Mexico Bi-National Drug Threat Assessment* and the developing U.S.-Mexico Bi-national Counterdrug Strategy are products of improving bilateral relations and increased understanding and cooperation at all levels.

CROP ERADICATION

Question 1. In the 1997 National Drug Control Strategy, ONDCP announced it's long term goals and objectives. Goal 5 is to break foreign and domestic drug sources of supply. The first objective for this goal is to reduce the cultivation of crops used in the production of illegal drugs worldwide, through crop eradication.

For many of the countries identified as being principal growers of these crops, coca, opium, and marijuana are and have been the primary "cash crops" underscoring the economy and political base of these poor countries.

What is the incentive for a country to cooperate in this crop eradication initiative?

Answer. It is in a country's own best interest to cooperate in crop eradication initiatives. In international relationships, crop eradication demonstrates compliance with the 1988 U.N. Convention and serious commitment to control illegal drug production. It is also a positive factor that is considered during U.S. certification deliberations, enhancing cooperation and support from the U.S., and possibly other countries. Specifically, a country's crop eradication program could be a factor in determining whether a country receives foreign aid and assistance in obtaining export-import (EX-IM) trade financing. Crop eradication can result in moving farmers to licit businesses and improving and diversifying the long-term potential for farmers' livelihood which is not dependent on a dangerous, destructive and illegal drug trafficking economy. It also helps create opportunity for alternative development funding and investment to improve a broad-based, sustainable economy.

Question 2. What is being proposed to offset the profitability of this crop cultivation and production of illegal drug product? What agricultural alternatives are we offering?

Answer. U.S. alternative development programs which support host nation alternative development initiatives consist of funding for crop substitution, agricultural extension programs, community development projects, roads, schools, health care facilities, improvements in transportation modes, infrastructure improvements, marketing incentives and farm credit support. These programs are funded by the host nation, the U.S. and other donors. All of these programs are reinforced and stimulated by sustained interdiction and law enforcement measures to drive down the farmgate price of illicit crops, move farmers away from these crops, and help ensure they will not return.

Agricultural alternatives clearly must be tailored to the local situation. In Peru, the principal country fully participating in alternative development, we support agricultural extension programs for former coca growers which facilitates their cultivation of cacao, coffee, rice, and papaya. In Bolivia there is support for pineapple, bananas, and other crops, as well as a juice plant to open markets in neighboring countries. The U.S. also helps both countries to fund technical help and training to turn farmers to these crops, supply plant pathologists to assist in creating doctoral programs at local agricultural universities, and provide assistance in obtaining farm credit financing.

Question 3. Will this effort receive the full backing of the leadership in these countries, many of whom have benefited from the marketing of coca, opium and marijuana?

Answer. The leadership of most drug-producing countries have come to the realization that narco-trafficking does severe damage to their legitimate economies through displacement of licit crops (including vital food crops) and legitimate businesses. Traffickers increasingly use contraband as a means to launder drug proceeds, leaving legitimate importers and manufacturers without the ability to compete. Obviously, the vast sums of money spent on law enforcement measures also take their toll on already stretched national budgets.

In this regard, Peru's President Fujimori fully supports alternative development for the coca growing areas of his country, combined with a program of sustained interdiction, law enforcement, and the manual eradication of coca crops (vs. chemical eradication). The Colombian leadership supports crop eradication through chemical spray programs. The government of Colombia has an alternative development program supported in part by the UNDCP to assist farmers to move to legitimate crops. The government of Bolivia (GOB) supports manual eradication efforts and achieved a small net reduction in coca cultivation in 1996. The newly elected GOB has committed to a "coca-free Chapare"—the principal illicit coca growing area of Bolivia—by 2002. In the opium growing source countries of Burma and Afghanistan, the leadership has not backed either eradication or alternative development measures.

Question 4. What quality assurances will be implemented for the crop eradication program? How do we know they are effectively destroying these plants?

Answer. The U.S. government, through annual reporting from the CIA/Crime and Narcotics Center (CNC), publishes worldwide crop cultivation estimates for coca and opium based upon satellite imagery and aerial photography. These reports are verified by field surveys involving crop specialists from CNC who visit coca and opium growing areas (where accessible) to measure crop growth, the effects of crop eradication spraying efforts and abandonment of growing areas, to obtain "ground truth" of estimated cultivation.

The U.S. verifies the effectiveness of crop destruction efforts through the CNC field surveys, as well as reporting from State Department/International Narcotics and Law Enforcement (INL) and U.S. Embassy personnel. State/INL supports crop eradication programs against coca and opium grown in the Andean source countries and participates, in varying degrees by country, with host nation personnel conducting crop eradication operations.

Question 5. What infrastructure investment will the U.S. have to make into these targeted countries to facilitate crop conversion?

Answer. ONDCP is coordinating an interagency process to develop estimates of the necessary resource requirements to achieve a 50 percent reduction in coca leaf grown in Bolivia, Colombia, and Peru over the next five years. This investment would provide enforcement and interdiction measures that disrupt the cocaine export industry, as well as alternative development programs that would provide licit income alternatives and encourage the cultivation of legal crops.

Question. 6. How accurate are these estimates in painting the universal picture of illegal drug production activity?

Answer. The imagery-based sampling methodology used to estimate licit crops in the United States is used to estimate illicit narcotics cultivation around the world. The statistical methodology is highly reliable, and is used annually to provide a strategic trend assessment of the illicit narcotics crops.

Estimating the amount of cocaine or heroin actually produced from the available crops is less precise. Information such as local consumption of coca leaves, efficiencies in converting raw materials to cocaine or heroin, etc., are difficult to obtain. Our overall estimates, therefore, are generally characterized as "potential" production. Programs such as the Drug Enforcement Administration's "Operation Breakthrough" are assisting us to better understand how efficient the cocaine producers are. Other interagency efforts are underway to improve information concerning the non-U.S. demand, particularly for cocaine.

Question 7. How much of our information is reliant upon figures provided to us by target countries? How reliable are their eradication and seizure activity reports?

Answer. Information provided by the target countries for cultivation and production is very seldom relied upon by the U.S. government. Whereas seizure activity as reported by target countries is not completely unreliable, it does not provide a reference point for more in-depth analysis by U.S. authorities. Target country eradication figures provide a measure of the level of activity. Eradication assessments are based on U.S. government intelligence collection and crop assessments.

Question 8. What are the current Central and South American estimates for production, eradication (to include in-country seizures), and shipment of cocaine, heroin, and marijuana to the United States?

Answer.

LATIN AMERICA ILLICIT NARCOTICS PRODUCTIONS, 1996

	Cultivation (ha)	Eradication (ha)	Potential production	Seizures (mt)
Cocaine:				
Bolivia	48,100	7,500	215	76.40
Peru	94,400	1,260	435	19.69
Colombia	67,200	[1] 16,053	110	23.50
Heroin:				
Mexico	5,100	7,900	5	.363
Colombia	6,300	[1] 6,028	6	.183
Marijuana: Mexico	6,500	12,200	3,400	1,150

[1] Reported spray activity.
Seizure data: International Narcotics Control Strategy Report, 1997.

To date, there are no reliable estimates regarding the shipments of heroin or marijuana to the United States, other than as discussed above.

The Interagency Cocaine Flow Working Group estimated for 1996 that 648 metric tons of cocaine left the source zone (i.e., South America) destined for the United States and other world markets. This estimate was based on known events totaling 321 metric tons and possible events estimated at 327 metric tons. Of the 648 metric tons that left South America, 191 metric tons were seized either en route or in the arrival zone (i.e., the United States). The remaining 457 metric tons were presumed to have reached world markets, including the United States. Estimates for the first quarter of 1997 suggest a continuation of this pattern.

Question 9. What are the weaknesses in the estimates?

Answer. As noted above, it is difficult to estimate the amount of coca leaf or opium gum actually harvested and processed. Illicit narcotic crops are detected using imagery; estimates of actual heroin and cocaine production are more difficult to measure.

The principal weakness associated with our cocaine movement estimates are caused by incomplete intelligence. For example,

—Even when we know a cocaine movement has occurred, we sometimes have to estimate the volume of cocaine delivered.

—For "possible" events, where cocaine movement intelligence has not been corroborated, we often lack data elements, such as route, conveyance, or quantity. In those cases, our estimate of the missing data are based on precedent but subject to error.

—Despite comprehensive monitoring of air and sea routes to the U.S., traffickers are often able to avoid detection completely. This is particularly true with small amounts (less than 10 kilos) smuggled to world markets via commercial or maritime shipments.

The principal weaknesses in seizure data estimates are: (1) Overestimates—host governments tend to overestimate reporting, and the possibility of double counting; and (2) Timeliness of reporting—host governments officially report seizures once a year to the U.S. just prior to certification. The CIA Counternarcotics Center maintains its own comprehensive database of actual seizure events from all-source reporting. The database provides an accurate representation of ongoing seizures in the source and transit countries. In some cases, however, the timeliness of seizure reporting can lag for a month or more, requiring constant updates to the database.

DRUGS AND CRIME

Question 1. What prevention programs are successful in keeping individuals from sliding into a life of drug abuse? What are the ingredients for a successful program?

Answer. Over the past 20 years, HHS and the National Institute on Drug Abuse have supported a rigorous research program to determine what really works to help prevent drug abuse among youth. HHS was mandated by Congress to conduct a three-year study of prevention programs. The final product, the National Structured Evaluation, identified the necessary "ingredients" or "modules" which contributed to successful program outcomes. There are fourteen principles which focus on: enhancing "protective factors" and reversing known "risk factors," targeting all forms of drug use, including tobacco and alcohol; teaching resistance skills and increasing opportunities to practice social competency skills; interactive methods; involving parents and school; working with communities to strengthen "norms" against drug use; age-specific, developmentally appropriate and culturally sensitive.

In addition, NIDA has recently published a researched-based guide to prevention programming, which identifies and highlights ten school-, community-, and family-based programs as effective. These science-based guidance documents are being disseminated to communities around the country to assist in a more disciplined application of research results at the state and community levels.

Question 2. What new programs are on the horizon? Who are the targets and what are the goals?

Answer. New programs are being developed as part of a research protocol and tested in a family, school or community setting over a reasonable period with positive results. There are new definitions adopted by the prevention field, which describe programs by the audience for which they are designed—specifically, universal, selective, and indicated programs. Universal programs reach the general population—all students in a school; selective programs target groups at risk or subsets of the general population—children of drug users or poor school achievers; and indicated programs for people already using drugs or exhibit other risk-related behaviors.

Life Skills Training Program is an example of a universal classroom program designed to address a wide range of risk and protective factors by teaching general personal and social skills in combination with drug resistance skills. Strengthening Families Program is a selective prevention program, a multi-component, family-focused program that targets 6-to–10-year-old children of substance abusers. Reconnecting Youth Program is a school-based indicated prevention program that targets young people in grades 9 through 12 who show signs of poor academic achievement and potential for dropping out of school. Adolescent Transition Program is one which integrates all three approaches and focuses on parenting practices.

Question 3. What should be done for those who are arrested for the first time and found to be abusing drugs?

Answer. At a minimum, pretrial or post-conviction release should be conditioned on compliance with a program of drug testing and monitoring. Preferably, a formal assessment should be performed to determine the extent of the drug problem and any release should be conditioned on compliance with the treatment and/or monitoring regime that is developed in response to the assessment. Sanctions should be graduated (ultimately ending with incarceration) and employed swiftly in response to any slips in compliance.

Question 4. Are there any examples where early treatment referral, after arrest, has successfully disengaged these individuals from further drug use and a subsequent life of crime?

Answer. Effective offender management programs bring offenders under criminal justice supervision early, employ a formal assessment, apply palpable sanctions swiftly, and maintain unbroken contact with the offender. A notable example is the TASC program (originally called Treatment Alternatives to Street Crime, now generally called Treatment Alternatives for Safer Communities), which has been formally evaluated by the National Institute on Drug Abuse (NIDA) and found to be effective in reducing both drug use and crime. The more recently established drug courts, which rely on TASC or TASC-like offender management, are experiencing similar results.

Question 5. What are the most vulnerable ages and influencing demographics in this process?

Answer. The most extensive research on development and vulnerability focuses on early childhood, especially the pre-school years. For this group, risk factors (e.g., unemployed, and/or drug using, and/or law breaking parents) and predictive behaviors (e.g., excessive shyness) have been identified. For older children, points of significant transition (e.g., from elementary to middle school and from middle to high school) are times of increased vulnerability. Children between 11 and 13 years of age appear to be particularly vulnerable, in that they are going through multiple transitions. Children with strong positive ties to healthy parents seem most able to weather these transitions.

DRUG COURTS

Question 1. How successful are the existing Drug Court programs in reducing the demand for illegal drugs?

Answer. One indicator of demand reduction is the extent to which drug-law offenders stop using drugs. Since Drug Courts began operating in 1990, more than 45,000 persons have entered the program. More than 70 percent of them have "graduated" or are presently in a Drug Court program, outcomes we equate with abstinence.

Question 2. How many programs are currently in effect nationwide?

Answer. There are approximately 200 drug courts in the United States.

Question 3. What key factors influence the success of this program?

Answer. The success of Drug Courts is attributable to a number of factors including the immediacy of entry into the program, a condition often imposed within days of arrest; availability of treatment and other health rehabilitation services; direct judicial monitoring of offenders; immediate imposition of sanctions when program participants violate program requirements; Drug Court strategies that are comprehensive (e.g., inclusive of criminal justice system, treatment, community anti-drug organizations) and fully coordinated.

Question 4. How early in the criminal justice process are eligible candidates referred into the Drug Court process?

Answer. Participants usually enter Drug Court programs within days of their arrest. Indeed, many are transported to a Drug Court orientation facility immediately after acceptance in the program and prior to their (conditional) release into the community.

Question 5. Please describe a typical case for Drug Court referral.

Answer. Drug Courts differ. There are, however, commonalities that approximate a "model."

For example, the person arrested and charged with illegal drug possession is interviewed by drug court staff while in custody, usually prior to arraignment. Program eligibility having been established, the defendant is arraigned before a Drug Court judge (often on the same day as arrest) and placed in the Drug Court program.

The initiate is ordered to undergo program orientation (again, this often occurs on day-of-arrest). Ideally, pretrial services, treatment assessment, and "Treatment Alternatives for Safe Communities" (TASC) involvement are also achieved on day-of-arrest.

Program participants are drug tested upon entry and must meet with supervisory staff and/or receive treatment at least weekly. Progress is monitored by the Drug Court judge monthly. At the conclusion of at least one year of treatment and supervision, participants "graduate," their cases are dismissed and probation terminates.

Question 6. What is the projected impact of these Drug Courts in breaking the cycle associated with drug-related crime and punishment?

Answer. Research conducted by the University of Maryland (Center for Substance Abuse Research, University of Maryland, Drug Strategies, *Cutting Crime: Drug Courts in Action, 1997,* Washington, DC) concludes that "recidivism has been significantly reduced for drug court participants."

Question 7. What happens to an individual who does not subscribe to the mandates of the Drug Court?

Answer. Participants who do not fulfill their program obligations are subjected to graduated sanctions. At a minimum, drug testing frequency may increase and additional treatment might be required. As program violations mount, severe sanctions accrue, to include imprisonment, program expulsion, and reimposition of criminal proceedings.

HARD CORE USERS AND CRIME

Question 1. ONDCP states that on average, 12.5 million Americans are considered to be "past month users", of which 3.6 million are considered to be "hard core" users. These 3.6 million hard core drug users are said to be responsible for most of the drugs consumed and drug related crimes in the U.S. today. Two thirds of these hard core individuals will come in contact with our criminal justice system.

The National Drug Control Strategy is focusing on "Demand Reduction", which targets breaking the cycle of drug dependence. A key factor for the success of this initiative is in breaking the cycle of demand by hardcore drug abusers. Please define "past month users" and "hardcore users."

Answer. Past month use is a standard term used in many epidemiology surveys of drug use (e.g., the National Household Survey of Drug Abuse [NHSDA] and MTF.) Past month users are those individuals who use drugs at least once in the 30 days prior to the interview. They also are commonly referred to as "past 30 day users" and "current users." Hardcore users (or chronic hardcore users) is not a term used typically in association with epidemiologic surveys because this population is difficult to measure and is, therefore, not well represented in surveys of the general population, such as the NHSDA and the MTF. However, it is a useful term in describing the most difficult and troublesome population of drug users. Hardcore users are those individuals who use drugs on a weekly (i.e., heavy) basis and whose use of drugs is accompanied by negative behavioral consequences (e.g., unemployment, criminal activity, and an inability to sustain relationships).

Question 2.. How is society impacted by this population of hardcore users?

Answer. Hardcore drug users are one of the most troubling aspect of the nation's drug problem and negatively impact society in many ways. For example, the hardcore using population while representing approximately 30 percent of the cocaine using population, accounts for more than two-thirds of all of the cocaine consumed in the United States. It is these users who maintain the illegal drug market, and its attendant violence, and keep drug traffickers in business. Hardcore users are responsible for a disproportionate amount of crime, and the frequency and severity of their criminal activity rises dramatically during periods of heaviest use. Hardcore users frequently are "vectors" for the spread of infectious diseases such as hepatitis, tuberculosis, and HIV and other sexually transmitted diseases. It is this population that serves as a reservoir of drug use for periodic outbreaks of renewed use of drugs among the general population, as we may currently see with heroin and methamphetamine.

Question 3. What precipitates hard-core drug use?

Answer. Scientists have attempted for many years to determine the origins of illicit drug use and how it progresses to chronic use. Key factors have been identified that differentiate those who use from those who do not. Risk factors are associated with those who have a high potential for drug use. Factors associated with reduced potential for use are identified as protective factors. These risk factors can have different consequences dependent upon an individual's phase of development. Generally, however, these risk factors include:

—Chaotic home environments, particularly in which parents abuse substances or suffer from mental illness;
—Ineffective parenting, especially with children with difficult temperaments and conduct disorders;
—Lack of mutual attachments and nurturing;
—Failure in school performance;
—Poor social coping skills;
—Affiliations with deviant peers or peers around deviant behaviors;
—Perceptions of approval of drug-using behaviors in school, peer, and community environments; and
—Availability of drugs, trafficking, and beliefs that drug use is generally tolerated.

Question 4. What mechanisms do we have to identify hard core drug users?

Answer. There are a number of assessment instruments that can determine the relative severity and progression of a user's drug abuse, health and social consequences, and criminal and other behavioral consequences. Many also address the so-called "stakes in conformity," the ties to society's institutions that can be helpful in recovery. For example, the Federal Bureau of Prisons employs a residential drug abuse treatment eligibility interview instrument that is linked to the Diagnostic and Statistical Manual (DSM IV) of the American Psychiatric Association. Many jurisdictions and programs use the Addiction Severity Index (ASI) developed through the efforts of researchers at the University of Pennsylvania and the Philadelphia Veterans' Affairs Program. Others, such as Colorado and Birmingham, use the Offender Profile Index (OPI), developed under a federal demonstration program. An example of a gross screening instrument would be the CAGE test for use by primary and/or emergency room health care professionals.

Question 5. How effective have ONDCP efforts been in terms of hardcore users? In other words has the level of hardcore users changed over the past ten years?

Answer. The level of hardcore drug users has remained relatively stable over the past 10 years. There are an estimated 2.1 million hardcore cocaine users and about 600,000 hardcore heroin users. However, this population is known to be very intractable and difficult to reduce. Also, research indicates that heavy use declines slowly following declines in initiation. According to a 1994 RAND study (Everingham and Rydell, *Modeling the Demand for Cocaine*): ". . . the effect on heavy cocaine usage of government programs that reduce incidence (such as prevention programs) will only be realized many years later, and part of the effectiveness of local law enforcement programs and other programs that influence drug use in multiple ways (affecting incidence, flow rates, and the consumption rates of current users) also will be delayed." The good news is that the number of cocaine initiates has been declining. Cocaine initiates reached their peak in 1984 at 1,401,000. Since then they have fallen 62 percent to 533,000 in 1994. Consequently, if we continue to support the coordinated efforts of prevention, treatment, interdiction, and source country programs then we can expect to begin to see a reduction in the hardcore user population.

Question 6. What is the average life span of hard-core drug users?

Answer. The average life span for the chronic addict, without therapeutic intervention, is shortened by about 20 years. The decreased life span is attributable to a number of factors including lifestyle (i.e., criminal behavior to support habit and diminished quality of life) and deterioration of health secondary to infection and resulting disease. With therapeutic intervention, the life span is the same as for the average American, if the addict receives adequate health care (including the use of appropriate medications) to effectively counter the effects of illicit drug use.

For the approximately 600,000 opiate addicts that drug is Methadone. Methadone treatment clearly ranks as the most promising and available treatment for the opiate addict on the market today. The research indicates that the combined impact of psychosocial services and Methadone maintenance significantly improves the outcomes for the intravenous drug user. Some studies indicate that the longer a person remains in treatment the more lasting the benefits, i.e., less criminal activity, improved health, better overall quality of life.

The approximately 1.6 million Americans who are chronically addicted to cocaine also experience a positive response (improved quality of life which equates with longevity) when provided comprehensive psychosocial interventions and appropriately medicated for relief of psychic and physical symptoms.

Question 7. Is there evidence that the cycle of demand can effectively be broken for this group?

Answer. The cycle of demand can be broken for the user. However, the extent of their addiction must be matched with treatment of sufficient intensity and duration. Addiction is a treatable, chronic, relapsing disorder. Significant benefits accrue to society at the point of an addict's entry into treatment—drug use, criminal activity, and infectious disease transmission are sharply reduced.

For example, the congressionally-mandated, National Treatment Improvement Evaluation Study (NTIES) determined the persistent (12-month follow-up) effects of substance treatment on predominately poor, inner-city populations as follows: use of illicit drugs dropped an average of 50 percent; batteries dropped by 78 percent, drug selling by 78 percent, shoplifting by 82 percent, and arrests by 64 percent; exchange of sex for money or drugs dropped by 56 percent; homelessness dropped by 43 percent and receipt of welfare income by 11 percent; and employment increased 19 percent.

Question 8. If we find there are no effective treatment tools, what will be our alternatives for dealing with this group?

Answer. Fortunately, the threat or application of criminal justice sanctions linked to treatment has proven generally effective. For violent, drug abusing criminals, long-term incarceration may be necessary. Treatment should still be provided to this group because it will improve institutional and correctional staff safety and because it is bound to have some effect over time. For nonviolent but persistent petty drug abusing criminals, longer-term probation sentences linked to treatment would be in order. Those in need should receive treatment at every security level, linked with unbroken contact with the criminal justice system.

Question 9. If you had to balance your spending between preventing the 1st time use of drugs and treatment programs for hard core users, what would be the best investment?

Answer. It is very difficult to consider preventing drug use by our children and helping the 3.6 million Americans who are chronic drug users overcome their dependency problems as mutually exclusive priorities. They should not be viewed as either/or propositions. If resources are invested in effective drug prevention programs, then the number of future drug users will be reduced. This will mean that there will be fewer casual drug users, and even fewer chronic users.

The *1997 National Drug Control Strategy* recognizes that investments in drug prevention programs will pay off. That's why the *Strategy's* number one goal is to educate and enable America's youth to reject illegal drugs as well as alcohol and tobacco. We know that a 12-year old who smokes marijuana is 85 times more likely to use cocaine than one who doesn't smoke, drink, or use pot as a drug-free peer. As we learn more about the ways that psychoactive substances affect the brain, we understand that if youth avoid using alcohol, tobacco, or illegal drugs until their twenties, then they are less likely to suffer a drug dependency problem. This logic is at the heart of the ONDCP-proposed youth-oriented anti-drug campaign.

At the same time, we cannot ignore the fact that those Americans who are addicted to illegal drugs and other substances cause enormous damage to themselves, their families, and their communities. We must continue to invest in effective public and private treatment programs. We must also expand diversion programs within the criminal justice system (such as drug courts) so that we can break the cycle that links addiction, crime, and violence.

SUBCOMMITTEE RECESS

Senator CAMPBELL. The subcommittee is recessed.

[Whereupon, at 11:58 a.m., Wednesday, May 14, the subcommittee was recessed, to reconvene at 9:32 a.m., Thursday, June 19.]

TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS FOR FISCAL YEAR 1998

THURSDAY, JUNE 19, 1997

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

The subcommittee met at 9:32 a.m., in room SD–124, Dirksen Senate Office Building, Hon. Ben Nighthorse Campbell (chairman) presiding.

Present: Senators Campbell, Shelby, Faircloth, and Kohl.

Also present: Senator Kerrey.

NATIONAL COMMISSION ON RESTRUCTURING THE INTERNAL REVENUE SERVICE

STATEMENT OF HON. J. ROBERT KERREY, U.S. SENATOR FROM NEBRASKA, AND COCHAIRMAN, NATIONAL COMMISSION ON RESTRUCTURING THE INTERNAL REVENUE SERVICE

OPENING REMARKS

Senator CAMPBELL. The subcommittee will be in order. This morning will be the final hearing on the fiscal year 1998 budget for the Subcommittee on Treasury and General Government. This morning we will be discussing the 1998 budget for the Internal Revenue Service and the recommendations for the future of the agency.

Since there appears to be little controversy on either subject, hopefully it will not be too painful. There are a lot of issues facing the IRS now and over the next several years. It is one of the largest Government users of computer technology. They face a huge task of correcting the year 2000 recognition problem.

As I understand it, right now the IRS does not know how big the Y2K problem is, let alone how much it is going to cost to fix it. In addition, there is the ongoing need to increase collections, while at the same time improve public relations with the taxpayers.

There is also the necessary technological improvements originally envisioned as part of the tax modernization system, commonly referred to as a TSM, and now encompassed in the newly released modernization blueprint or architecture.

The biggest problem, in my opinion, however, facing the IRS is the credibility problem, not only with the taxpayers themselves but with the Members of Congress, particularly the appropriators. It is difficult, if not impossible, for us to simply forget about wasted modernization funding and go right ahead and set up an informal

information technology fund with the initial investment of over one-half of a billion dollars.

Our first witness this morning is the former ranking member of this subcommittee, Senator Bob Kerrey, who is on his way and hopefully will be here when we finish our opening statements. Senator Kerrey is currently serving as the cochairman of the National Commission on Restructuring the Internal Revenue Service, an entity created by this subcommittee.

This Commission is nearing completion of a year-long review of the IRS and will be issuing their comprehensive report on June 25. Hopefully we will have a preview this morning of some of the recommendations which will be contained in that report.

Then we will be talking to the General Accounting Office. As many of you know, the GAO is reviewing various aspects of the IRS and has been for a number of years. And finally, we will hear from the Department of the Treasury and the Internal Revenue Service themselves.

Representing the Treasury Department will be Deputy Secretary Lawrence Summers, the department-level person responsible for the IRS. Joining him will be the Acting Commissioner of the IRS, Michael Dolan. Also seated at the witness table with that committee and available to answer questions from the subcommittee will be David Mader, if I have pronounced that right, Chief of Management and Administration; Arthur Gross, the Chief Information Officer; and James Donelson, the Chief of Taxpayer Service.

We have a lot of ground to cover and I do not know about Senator Kohl's briefing book, but mine has more questions than we will probably ever get through this morning. And so, we will be asking some and we will also be submitting a number of them for the record to be answered by the appropriate people.

As a general announcement, since this is the last hearing of this subcommittee during the fiscal year 1998 budget cycle, we will be accepting written testimony from interested parties to be included in the complete hearing record only until close of business on June 30.

With that, I will just go ahead and ask Senator Kohl if he has an opening statement.

STATEMENT OF SENATOR KOHL

Senator KOHL. Thank you very much, Chairman Campbell. As members of the Treasury and General Government Subcommittee and, more importantly, as taxpayers, we all have great interest in the IRS. We need to know that the IRS is fulfilling its mission, namely collecting tax revenues at the least possible cost.

The IRS's fiscal year 1998 request is almost $8 billion. That, of course, is a great deal of money. Before providing that funding, this committee has a right to know whether the IRS is being managed effectively and whether the Department of the Treasury is providing an adequate level of oversight.

We are all aware of the creation of the Modernization Management Board chaired by the Deputy Secretary of Treasury Summers. What we do not know is whether that board is any more effective than past efforts in providing IRS with a consistent level of direction and review.

I am concerned that the numerous issues the Deputy Secretary deals with will leave him little time to analyze the operations of the IRS. Perhaps consideration should be given to empowering someone to provide IRS oversight full-time. We are also concerned with the quality of management provided by the IRS Commissioner.

We are aware that the Commissioner's position often acts as a revolving door. Structure needs to be developed to ensure that the person accepting this position is making a commitment to provide Federal service and leadership for an established period of time.

The person selected must have a proven track record of having the management capabilities to run a large, successful operation. And it is important that the person appointed to that position has the ability to successfully supervise downsizing initiatives, modernization challenges, and the year 2000 conversion.

An example of why we have these continuing concerns with the IRS management efforts can be explained by a request we received just yesterday. IRS is requesting an additional $258 million in fiscal year 1998 to complete a systems conversion to meet the year 2000 requirements. I am concerned about this request, which is tied to the modernization effort.

We need to know, why are we hearing about it so late, what proposals the Department of the Treasury has for funding this request, has the Modernization Board approved this request, and how do we know the funds will be used to solve just the conversion problems?

Today we will be hearing from the experts. Senator Kerrey is chairing a commission studying the IRS. The GAO office has issued over 140 reports on IRS operations, and Deputy Secretary Summers and the IRS staff are working through the modernization problems, customer service problems, and the latest crisis, the year 2000 compliance initiative.

We are looking forward to an informative discussion on the steps that we, the Department of the Treasury, and the IRS must take to ensure that any further expenditures made are utilized appropriately. I have a number of questions for the IRS service that I will ask, and those we do not have time to get to, I, like Chairman Campbell, will submit for the record. Thank you, Mr. Chairman.

Senator CAMPBELL. Thank you, Senator Kohl. Well, since Senator Kerrey is running late—oh, well, he just came in. We have been waiting with bated breath for your testimony, Senator Kerrey. Why don't you go ahead and sit down? We just finished our opening statements and you may proceed.

Senator KERREY. Were they brilliant?

Senator CAMPBELL. They were brilliant, yes. You may go ahead and proceed.

STATEMENT OF SENATOR KERREY

Senator KERREY. Mr. Chairman and Senator Kohl, it is very nice to be sitting here with you this morning. I appreciate very much the opportunity to testify before your committee. From your position, a couple of years ago, the National Commission on Restructuring the Internal Revenue Service began. It began as a consequence

of making some observations about taxes and modernization not going well.

We tried to fence it in conference committee, were unsuccessful in doing that, and with the support of the chair and the ranking member on the House side, we created this Commission. Therein lies the beginning.

For the past year, as the cochair of the National Commission on Restructuring the Internal Revenue Service, I have worked with Senator Chuck Grassley and Congressman Rob Portman, who was the cochair of the Commission, as well as State tax administrators, private sector executives, and citizens groups reviewing IRS operations, management, governance, oversight, budget, work force, and technology.

It is an honor to report to the Senate Appropriations Committee because as I said, you are the parent of our organization. As you know, we were created to take a hard look at the operations, management, governance, and oversight of the IRS.

The Commission took a qualitative approach to its work, spending the majority of its time listening to American taxpayers, and experts on the IRS and the tax system. The Commission spent 12 days in public hearings and over 100 hours in private sessions with public and private sector experts, academia, and citizens groups.

The Commission also held three field hearings in Cincinnati, Omaha, and Des Moines. We met privately with over 500 individuals, including the majority of senior level IRS employees and interviewed close to 300 IRS frontline employees across the country.

We received continuous input from stakeholder groups and conducted a nationwide survey on the American public's view of the IRS. And finally, the Commission reviewed thousands of reports and documents on the IRS itself. I am convinced, Mr. Chairman, that a well-run Internal Revenue Service is vital to the health of our Nation.

Twice as many people pay taxes as vote. Therefore, the IRS is the only Federal Government agency many citizens interact with. We must make sure that the IRS meets their expectations for professionalism, service, and efficiency. A well-run IRS can increase the public confidence in their Government.

The second reason IRS is so important is obvious. IRS collects 95 percent of the Nation's revenues. Without the IRS, we would not be able to fund highways, education programs, or the military. Now, what I will discuss today with you is the recommendations coming from the majority of the Commissioners. The Commission developed a simple, but sound vision: The IRS works for the taxpayer, not the other way around.

I would like to quote from our report. ''Taxpayer satisfaction must become paramount at all levels of the IRS and the IRS should only initiate contact with a citizen if the agency is prepared to devote the resources necessary for a proper and timely resolution of the matter.''

What that means is that rather than treating people as guilty, the IRS must recognize the majority of taxpayers want to pay their fair share of taxes, and it is the agency's job to make it easier for

them to do so. A new customer service data base is integral to this vision. Electronic filing is also an integral part of the vision.

Taxpayer rights are also part of the vision. Now, last year, some of the press asked the IRS head of strategic planning what was going to be the agency's strategic direction for 1997, and the answer, ''Get through the 1997 filing season.'' This is the epitome of what thinking strategically is not about. Our vision says that the taxpayer satisfaction all year long is equally as important as a smooth filing season.

Today the IRS rates low in citizen approval for its service. It has a 20-percent error rate and it expends an incredible amount of resources and focus to correct these errors. They capture only 40 percent of the data from returns. It is 18 months before a return can be matched against 1099's.

Can you imagine a private sector business taking 18 months to send someone a bill saying, ''Mr. Kerrey, our records show that a year-and-a-half ago, you underpaid your bill.'' Certainly they would not stay in business very long.

The Commission report offers both a realistic goal for the new folks in charge of the agency and a credible plan for achieving that goal. In these days of tight budgets and limited governmental resources, the IRS must retool its 1950's processes and refocus these resources to add value to customers in order to reach the Commission's vision.

After spending many months digging around in the many tough issues confronting the IRS, the substantial majority of our Commission members realized that the agency suffers from two root problems. First, the agency has a difficult time focusing. The result is that many plans receive no follow through and the organization often lacks a coherent strategy and direction.

The most obvious example of this lack of focus was the tax system's modernization debacle. The IRS threw $4 billion in technology money at hundreds of unrelated projects. The result was lots of little interesting computer applications, but no significant business achievements.

The IRS executives and Treasury never decided what the organization wanted to accomplish. Whether it was to answer more phones or have more taxpayer data available for customer service representatives. In a better run system, that kind of business decision would be the predicate for a modernization effort. All money would be directed toward achieving that organizational goal. In the case of the IRS, however, because of the lack of strategy and direction, the $4 billion went to disparate programs not integrated to meet a specific business objective.

The second interrelated problem identified by the Commission was a lack of a coherent, accountable structure to implement a long-term vision and goal. We found that we in Congress often send conflicting signals to the agency. We found that Treasury has basically left IRS to its own devices, leaving a vacuum in the executive branch oversight of the agency.

We found a set of managers unable to maintain focus and gain traction with Congress on IRS strategy. In short, at the top of the IRS and in Treasury, there are murky lines of accountability, a lack of necessary expertise to operate in the new information age,

and no one with authority sticking around long enough to get the job done.

The officials at the Treasury Department have expertise in tax law and enforcement, but do not have the expertise in areas of customer service, technology, and management to oversee the IRS. Furthermore, they are not around long enough to ensure focus on multiyear projects like TSM or changing the culture of the agency to be more responsive to taxpayers.

Additionally, Treasury does not coordinate the oversight it does engage in. The Commissioner of IRS must deal with various assistant secretaries on budget, operations, computers, and other issues. At the end of the day, the Commissioner really reports to the Deputy Secretary who also manages 10 other agencies, not to mention the economy.

The recently retired Commissioner of IRS, Margaret Richardson, told us that she reported to three different Deputy Commissioners during her time in office. Because of these problems, the Commission began developing ideas for a new governance structure. The criteria for success of any new structure were one, clear accountability; two, expertise in running a modern, customer-oriented organization; and three, the continuity to get the job done.

To solve the problems of continuity, expertise, and accountability, the Commission will recommend first, a board of governors appointed by the President for staggered 5-year terms to assume full control of IRS governance. The board will be fully accountable for the performance of IRS, oversee the IRS management, be around long enough to enforce changes throughout the organization, and have unique public and private sector expertise in managing large service organizations.

Second, the Commissioner will be appointed for a 5-year term so he or she will be around long enough to effectuate real change. Third, the Commissioner will be given greater flexibility to hire or fire his own team of executives who will bring new expertise into the IRS.

Fourth, the IRS will receive stable funding so its leaders can undertake the proper planning to rebuild its foundation. Our recommendations specifically say that for 3 years, IRS should receive current levels of funding. It is up to Congress to decide whether that should be current budget or current budget plus inflation.

We purposely left it up to Congress to decide. We were silent on technology funding except that we encourage any additional appropriations be targeted toward (*a*) building a taxpayer accounts data base to facilitate taxpayer assistance, and (*b*) ensuring certain success in the century date change problem.

Last, we recommended congressional oversight could be better coordinated between the authorizing committees, the appropriating committees, and the Government oversight committees. We will recommend that committee leaders, minority and majority, meet regularly to ensure that IRS receives clear guidance from Congress and that Congress is given the proper information to oversee the IRS.

As you may know, the Secretary of the Treasury Bob Rubin and the Deputy Secretary Larry Summers disagree with our plan for a Board of Governors to oversee the IRS. They have developed an al-

ternative proposal which would create two advisory-type boards which are an attempt to strengthen Treasury's governance of IRS.

While we seriously considered their proposal, in the end, the Commission rejected this approach. First, our opinion is that it further blurs accountability just when there is a need for clearer lines of accountability. Second, it does nothing to alleviate the continuity problem. Political appointees who traditionally serve for a short period of time will continue to oversee IRS operations.

Third, it endangers politicizing the IRS. What we need is accountability without politicization. The Treasury's proposal to create an oversight board of officials from OMB, OPM, and the Vice President's Office could undermine the credibility of IRS as an apolitical institution.

The White House has always, in our judgment, wisely tried to keep an arm's length distance from IRS. Finally, it does not guarantee that the people with the proper expertise in computers, technology, and service will oversee IRS operations.

Secretary Rubin and Deputy Secretary Summers have been vigilant in their attacks of our proposal. They have said that private people should not control law enforcement and that our Nation's revenue stream will be at risk under our proposals.

Those accusations, Mr. Chairman and members of the committee, are simply not true. First, we propose that the Board of Governors be presidentially appointed, Senate-confirmed, and removable at the will of the President. While they serve on the Board, they will be special Government employees serving in a Government function, much like the Postal Board of Governors who have vast control over the Postal Service, including the enforcement arm of the Postal Inspection Service.

Additionally, this Board will not have any role in tax policy, which will stay with the Secretary of the Treasury. Much like the Canadian system, our proposal will draw clear lines of accountability between tax policy and tax administration. Also, the Secretary of the Treasury will sit on the Board, subjecting the Board to scrutiny were there to be any appearance of impropriety.

Finally, the Secretary of the Treasury would continue to have final say over the IRS budget before it is sent to Congress. Under our proposal, the Board would send Congress a copy of their budget at the same time they sent it to the Secretary, allowing Congress to make the decision of how much money to appropriate.

As for the comment about endangering the Federal revenue stream, all I can say is that as far as I am concerned, that is an irresponsible comment. Anyone who understands the IRS knows it is like a tank, impenetrable. While our integrated proposal will hopefully jolt the agency into a customer focus, it certainly does not endanger its operation. I can only attribute this comment to the classic Washington battle over turf.

The structural changes I described earlier will ensure the following operational changes are implemented. First, we advocate work force flexibility. Current Civil Service rules make it difficult for the IRS to retain competent employees, fire bad employees, and pay people appropriately. We recommend that the IRS be given the flexibility to redesign its work force rules and develop appropriate

internal measurements to free employees from redtape and hold them accountable for performance.

Second, we recommend modernizing the computers. IRS has had neither a strategic plan for technology nor had the people with the knowledge to implement technology plans. We recommend that the IRS develop a long-term strategic plan for modernization and hire qualified people to make these plans a reality.

Third, we want to encourage paperless filing. Electronic filing saves the Government money and saves the taxpayer from receiving a baseless audit because of mistakes by the IRS. The Commission recommends that IRS develop a marketing plan which makes paperless filing the preferred method of filing for 80 percent of the taxpayers within 10 years.

Fourth, we have emphasized taxpayer rights. The Commission recommends additional steps to improve the taxpayer's ability to recover damages for wrongful actions by the IRS and encourages IRS and Congress to do everything they can to protect taxpayers from unnecessary disputes with the IRS. Stated simply, the best call from the IRS is no call from the IRS.

Finally, we urge simplification of the tax code. The Commission found a direct connection between taxpayers' frustration with the IRS and complexity of the tax code. We encourage Congress to take steps to simplify the current law and to introduce a complexity index which will make Members consider the complexity of a new tax before they pass a bill.

In conclusion, all of our recommendations are geared toward making it easier for citizens to interact with the IRS. The structural changes, the Board of Governors, enhanced flexibility for the Commissioner, and consolidated congressional oversight will ensure that the IRS can become a modern service organization.

The other changes will make it easier for citizens to pay their taxes. All of them together will make the IRS run better and help restore citizens' faith in the American system.

Finally, let me say that we worked very closely with Internal Revenue Service. I have high praise for Commissioner Richardson and all of her staff and people at the IRS. We accumulated a substantial amount of documents that are, in many instances, a first time look inside of the IRS. We facilitated an arrangement whereby we would be able to see, subject to privacy concerns, much of what is going on over there in a way that frankly I had not seen when I was on the oversight committee.

Next, let me say that Secretary Rubin and the Commission also had a very, very good working relationship. I have always had a high regard for Secretary Rubin. I trust absolutely that his goal and our goal are one and the same. Since the Commission started its work, the administration has made a number of changes in the IRS, most notably bringing in Arthur Gross as the Chief Information Officer as well as creating this management board and making some other structural changes, the last of which was to bring on a business person whom they are going to recommend to be the new IRS Commissioner.

My hope is that as we convert this into legislation, introduce it, and start to move it through, we will be able to reach agreement with the administration on the last point of difference, which is the

significant structural changes that we are recommending with the new board.

We have heard many arguments against this new board. Jerry Seib, a reporter with the Wall Street Journal, wrote an article yesterday. I would like to not only distribute it to this committee, but I would also like to make available to the committee the response that Congressman Portman and I made to the article.

He inaccurately describes the proposal and after inaccurately describing the proposal, then sets out his objection to a proposal that we, in fact, did not make. It is not uncommon to have that occur in debate, but I just want to make it clear that you will hear many inaccurate statements made about our proposal and you will hear then arguments used why it should not be done.

We have always maintained a goal of closing the gap, a breathtaking gap that currently exists between IRS's ability to serve customers and what the private sector can do. At the end of the day, the measurement is, what can my bank do and what can the IRS do?

When you go to your bank and you try to get information, you are not told to come back in 18 months. You would find another bank if that was the case. There is a breathtaking difference. The IRS will constantly say, and to their credit, that the U.S. tax service is doing at least as good if not a better job than many other countries, and that is quite true.

But unfortunately for the IRS and for the administration's defense of the IRS, the customer in the United States does not compare the IRS with the tax collection agency of the Federal Republic of Germany. They compare it to what is going on in the private sector.

As I said at the start of my testimony, it is a vital agency because it touches every single American life, and not only are there benefits in restructuring and reforming the IRS to the taxpayer, both measured by the cost of running the IRS and the cost to comply, which is estimated by some to be $200 billion a year, but there are also benefits in increasing the efficiency of the IRS because if this agency is regarded as efficient and effective, then it will go a long ways toward restoring and increasing the trust that citizens have in our capacity for self-government.

Again, I appreciate, Mr. Chairman and members of the committee, your allowing me to come and present this testimony. Congressman Portman and I intend to produce a final written report as well as legislation that we hope to be introducing yet in this session.

PREPARED STATEMENT

Senator CAMPBELL. thank you, Senator Kerrey. We have your complete statement, and it will be made part of the record.

[The statement follows:]

PREPARED STATEMENT OF SENATOR KERREY

INTRODUCTION

For the past year as the co-chair of the National Commission on Restructuring the IRS, I have worked with Senator Chuck Grassley, and Congressman Rob Portman, as well as state tax administrators, private sector executives, and citizens

groups reviewing IRS operations, management, governance, oversight, budget, work force, and technology. It is an honor to report to the Senate Appropriations Committee, because you are the parent of our Commission.

As you know, we were created to take a hard look at the operations, management, governance, and oversight of the IRS. The Commission took a qualitative approach to its work, spending the majority of its time listening to American taxpayers and experts on the IRS and the tax system. The Commission spent 12 days in public hearings and over 100 hours in private sessions with public and private sector experts, academia, and citizen's groups. The Commission also held three field hearings in Cincinnati, Omaha, and Des Moines. We met privately with over 500 individuals, including the majority of senior level IRS employees, and interviewed close to 300 IRS front-line employees across the country. We received continuous input from stakeholder groups and conducted a nation-wide survey on the American public's view of the IRS. And finally, the Commission reviewed thousands of reports and documents on the IRS.

I am convinced that a well run Internal Revenue Service is vital to the health of our nation. Twice as many people pay taxes as vote; therefore, the IRS is the only Federal government agency many citizens interact with. We must make sure that the IRS meets their expectations for professionalism, service, and efficiency. A well run IRS can increase the public's confidence in the government. The second reason IRS is so important is obvious-the IRS collects 95 percent of the nations revenue. Without the IRS, we would not be able to fund highways, education programs, or the military.

THE COMMISSION'S VISION

What I will discuss today is the recommendations coming from the majority of the Commissioners. The Commission developed a simple, but sound, vision: THE IRS WORKS FOR THE TAXPAYER, NOT THE OTHER WAY AROUND.

I quote from our report: "taxpayer satisfaction must become paramount at all levels of the IRS and the IRS should only initiate contact with a citizen if the agency is prepared to devote the resources necessary for a proper and timely resolution of the matter." What that means is that rather than treating people as guilty, the IRS must recognize that the majority of taxpayers want to pay their fair share of taxes, and it is the agency's job to make it easier for them to do so. A new customer service database is integral to this vision. Electronic filing is also an integral part of this vision. Taxpayer's rights is also part of this vision.

Last year someone in the press asked the IRS head of strategic planning what was going to be the agency's strategic direction for 1997. The answer: get through the 1997 filing season. This is the epitome of what thinking strategically is not about. Our vision says that taxpayer satisfaction, all year long, is equally as important as a smooth filing season.

Today the IRS rates low in citizens approval for its service. It has a 20 percent error rate and expends an incredible amount of resources and focus to correct these errors. They capture only 40 percent of the data from returns. It is 18 months before a return can be matched against 1099's. Can you imagine a private sector business taking 18 months to send someone a bill saying, " Mr. Kerrey, our records show that a year and a half ago you underpaid your bill." Certainly, they wouldn't stay in business for long.

The Commission report offers both a realistic goal for the new folks in charge of the agency and a credible plan for reaching that goal. In these days of tight budgets and limited governmental resources, the IRS must retool its 1950's processes and refocus these resources to add value to customers in order to reach the Commission's vision.

WHAT WE FOUND

After spending many months digging around in the many tough issues confronting the IRS, a substantial majority of our Commission members realized that the agency suffers from two root problems: First, the agency has a difficult time focusing. The result is that many plans receive no follow through, and the organization often lacks a coherent strategy and direction. The most obvious example of this lack of focus was the Tax Systems Modernization (TSM) debacle. The IRS threw $4 billion dollars in technology money at hundreds of unrelated projects. The result was lots of little, interesting computer applications, but no significant business achievements. The IRS executives and Treasury never decided what the organization wanted to accomplish: e.g. answer more phones and have more taxpayer data available for customer service representatives. In a better run system, that kind of business decision would be the predicate for a modernization effort. All money would be di-

rected toward achieving that organizational goal. In the case of the IRS, because of lack of strategy and direction, the $4 billion went to disparate programs, not integrated to meet a specific business objective.

The second interrelated problem identified by the Commission was a lack of a coherent, accountable structure to implement a long term vision and goals. We found that we in Congress often send conflicting signals to the agency. We found that Treasury has basically left IRS to its own devices, leaving a vacuum in the Executive Branch oversight of the agency. We found a set of managers unable to maintain focus and gain traction with Congress on IRS strategy.

In short, at the top of the IRS and in Treasury there are murky lines of accountability, a lack of necessary expertise to operate in the new information age, and no one with authority sticking around long enough to get the job done. The officials at the Treasury department have expertise in tax law and enforcement, but do not have the expertise in areas of customer service, technology, and management to oversee the IRS. Furthermore, they are not around long enough to ensure focus on multi-year projects like TSM or changing the culture of the agency to be more responsive to taxpayers. Additionally, Treasury does not coordinate the oversight it does engage in: The Commissioner of IRS must deal with various assistant secretaries on budget, operations, computers, and other issues. At the end of the day, the Commissioner really reports to the Deputy Secretary who also manages ten other agencies, not to mention the economy. The recently retired Commissioner of IRS, Margaret Richardson, told us that she reported to three different Deputy Commissioners during her time in office.

Because of these problems, the Commission began developing ideas for a new governance structure. The criteria for success of any new structure were: (1) clear accountability (2) expertise in running a modern customer-oriented organization, and (3) the continuity to get the job done.

To solve the problems with continuity, expertise, and accountability the Commission will recommend:

—A board of governors, appointed by the President for staggered five year terms, assume full control of IRS governance. The board will: be fully accountable for the performance of IRS; oversee the IRS management; be around long enough to force change throughout the organization; and have unique public and private sector expertise in managing large service organizations.

—The Commissioner be appointed for a five-year term, so he or she will be around long enough to effectuate real change.

—The Commissioner be given greater flexibility to hire or fire his own team of executives, who will bring new expertise into the IRS.

—The IRS receive stable funding so its leaders can undertake the proper planning to rebuild its foundation. Our recommendations specifically say that for three years IRS should receive current levels of funding—It is up to you to decide whether that should be current budget or current budget plus inflation. We purposefully left it up to you to decide. We were silent on technology funding, except that we encouraged any additional appropriations be targeted towards (1) building a taxpayer accounts database to facilitate taxpayer assistance and (2) ensuring certain success in the century date change problem.

—Congressional Oversight could be better coordinated between the authorizing committees, the appropriating committees, and the government oversight committees. We will recommend that committee leaders, minority and majority, meet regularly to ensure that IRS receives clear guidance from Congress, and Congress is given the proper information to oversee the IRS.

COMPETING PROPOSAL

As you may know, the Secretary of the Treasury Bob Rubin and Deputy Secretary Larry Summers disagree with our plan for a board of governors to oversee the IRS. They have developed an alternative proposal, which would create two advisory type boards which are an attempt to strengthen Treasury's governance of IRS. While we seriously considered their proposal, in the end the Commission rejected this approach. First, our opinion is that it further blurs accountability just when there is a need for clearer lines of accountability. Second, it does nothing to alleviate the continuity problem—political appointees, who traditionally serve for a short time, will continue to oversee IRS operations. Third, it endangers politicizing the IRS. What we need is accountability without politicization. The Treasury's proposal to create an oversight board of officials from OMB, OPM, and the Vice Presidents Office could undermine the credibility of IRS as an apolitical institution. The White House has always, in our judgment wisely, tried to keep an arms length distance

from IRS. Finally, it does not guarantee that the people with proper expertise in computers, technology, and service will oversee IRS operations.

Secretary Rubin and Deputy Secretary Summers have been vigilant in their attacks of our proposal. They have said that private people should not control law enforcement, and that our nations revenue stream will be at risk under our proposal. Those accusations are simply not true. First, we propose that the Board of Governors be Presidentially appointed, Senate confirmed, and removable at the will of the President. While they serve on the Board, they will be special government employees serving in a government function, much like the Postal Board of Governors who have vast control over the postal service, including the enforcement arm-the postal police. Additionally, this board will not have any role in tax policy, which will stay with the Secretary of the Treasury. Much like the Canadian system, our proposal will draw clear lines of accountability between tax policy and tax administration. Also, the Secretary of the Treasury will sit on the board, subjecting the board to scrutiny were there to be any appearance of impropriety. Finally, the Secretary of the Treasury would continue to have final say over the IRS budget before it is sent to Congress. Under our proposal, the board would send Congress a copy of their budget at the same time they sent it to the Secretary, allowing Congress to make the decision of how much money to appropriate.

As for the comment about endangering the Federal revenue stream—all I can say is that as far as I am concerned, that is an irresponsible comment. Anyone who understands the IRS knows that it is like a tank: impenetrable. While our integrated proposals will hopefully jolt the agency into a customer focus, it certainly does not endanger its operation. I can only attribute this comment to the classic Washington battle over turf.

OTHER CHANGES

The structural changes I described earlier will ensure that the following operational changes are implemented:

—Work force Flexibility: Current civil service rules make it difficult for IRS to retain competent employees, fire bad employees, and pay people appropriately. We recommend that the IRS be given the flexibility to redesign its work force rules and develop appropriate internal measurements, to free employees from red tape and hold them accountable for performance.

—Modernizing Computers: IRS has neither had a strategic plan for technology, nor had the people with the knowledge to implement technology plans. We recommend that IRS develop long term strategic plans for modernization, and hire qualified people to make these plans a reality.

—Paperless Filing: Electronic filing saves the government money and saves the taxpayer from receiving a baseless audit because of mistakes by the IRS. The Commission recommends that IRS develop a marketing plan which makes paperless filing the preferred method of filing for 80 percent of the taxpayers within ten years.

—Taxpayer Rights: The Commission recommends additional steps to improve the taxpayer's ability to recover damages for wrongful actions by the IRS, and encourages IRS and Congress to do everything they can to protect taxpayers from unnecessary disputes with the IRS. Stated simply, the best call from the IRS is *no* call from the IRS.

—Simplification of the Tax Law: The Commission found a direct connection between taxpayers' frustration with the IRS and the complexity of the tax code. We encourage Congress to take steps to simplify the current law and to introduce a complexity index which will make Members consider the complexity of a new tax law before they pass a bill.

CONCLUSION

All of our recommendations are geared toward making it easier for citizens to interact with the IRS. The structural changes (Board of Directors, enhanced flexibility for the Commissioner, and consolidated Congressional oversight) will ensure that the IRS can become a modern service organization. The other changes will make it easier for citizens to pay their taxes. All of them together will make the IRS run better and help restore the citizens' faith in the American tax system.

OPPOSITION TO BOARD

Senator CAMPBELL. I am sure I can speak for the whole committee on the hard work and leadership you have taken for the last 2 years on this Commission. You paint a picture of an agency in

disarray without a clear chain of command, without clearly defined goals, and yet one that seems to be willing, up to a point, to improve.

You mentioned that the Secretary is opposed to this newly appointed board by the President. Have you gotten any feedback from the President on that or will that be after——

Senator KERREY. No; I presume that there will be some response afterward. I am hopeful because my relationship with Secretary Rubin is and has been good and I have got great respect for the reasons that he opposes it and I intend, relentlessly, to come and say, "Here is why we think that we are right and you are wrong."

He describes our proposal in this regard as being 100 percent wrong. What you have to do, I think, Mr. Chairman, is, if you look at the two proposals and consider the principal argument that both he and Mr. Summers make, which is, they do not want a part-time board governing the IRS.

Well, if it is a part-time problem that you object to, that is the problem now. I mean, the problem now is no Secretary, whether it is Secretary Rubin or whoever the Secretary is, no Secretary can give 100 percent of their time or even 50 percent of their time, I dare say likely even 10 percent of their time to worrying about an agency that I argue is the most important agency in all of Government.

They manage not only the IRS, but they manage the Customs, the Secret Service, they manage BATF, and six other significant agencies inside of Treasury. So there is part-time management now and a lack of continuity now, and most importantly, what is missing is the ability to say, "The executive branch and the legislative branch have agreed on a vision and a declaration of mission for the IRS."

This is where we want to go 10 years from now that we need to have in a joint agreement between the Congress and the executive branch. The only way that we could think of doing that is to create a strong and independent board that provides that kind of accountability, the President still appoints the Board members and they serve at the will of the President. By creating a single committee, we are recommending the relevant oversight committees coordinate oversight so that you can meet with this Board and agree what the purpose is going to be.

When the private sector came to us and testified, there were a number of very notable things that they told us in response to the question, "How do you do it? I mean, how do you satisfy your customers, because obviously, if you do not satisfy your customers on the business side, your customers can walk and go someplace else. They will choose someplace else because there are competitive alternatives. How do you keep your customers happy?"

The most notable response was the investment in information systems. Well, then the follow-on is how did you make good decisions, and the answer was, sometimes we did not. Sometimes you make mistakes. But the most important thing in eventually getting it right is knowing what you want that technology to do.

Having a clear vision and mission statement is the most important prerequisite to making the right decision. Finally, what the IRS said to us that I think is enormously helpful and relevant, but

you are not going to get there under the current structure, they view the job being done when the tax return is completed.

They see that as the finished, manufactured product. Part of the problem is there are start-go directions from Congress all the time, which is unquestionably true.

But the IRS sees the completed product to be the form, the empty form, not the completed form, not the work being done and the tax return being completed. So the private sector instructions, when it comes to technology, which is the most crucial question when you are trying to increase that customer satisfaction, is you have got to have a clear vision of where you want to go.

I would argue very respectfully with the President and very respectfully with the Treasury Secretary that unless we get some restructuring on their side and some reorganization on our side, it will be impossible to get there.

Senator CAMPBELL. Senator Kohl, did you have a question or comment?

Senator KOHL. Just, Mr. Chairman, that it is a very thoughtful report that you have put before us. Obviously you have given it great consideration, much time and much thought, and you have many, many good recommendations and I look forward to working with you to move some legislation through that, in fact, does make the IRS more efficient, more effective, and more sensitive to the needs of people throughout our country. Very good report.

Senator KERREY. One of the companies I will mention by name is Intuit. I hope we can get to the level of customer satisfaction that that company has or even 5 percent short of it, which is maybe more a reasonable goal. Right now, we are way short of what the private sector can do.

If IRS can get that close to it the reward will be not only for the taxpayer, again dollars I am talking about, but I think the reward will be that citizens will say we now have much more confidence that government by and for the people can work.

Senator CAMPBELL. Senator Faircloth.

Senator FAIRCLOTH. Thank you, Senator Kerrey, and thank you, Mr. Chairman. I must say impressive report and I am just delighted to have a chance to hear it and what you are doing. I do have one question or concern and that is the irrevocable move we tend to be making toward electronic filing.

I think it is a good idea, but I still think it should be done by incentives rather than a flatout demand that it should be an optional with the taxpayer.

Senator KERREY. Yes. Senator, that was a very hotly debated item inside of the Commission itself. We set a goal of 80 percent and used language to make it clearer that optional paper filing will always be there. But the reason that electronic filing is such an impressive, preferred option is the low error rate. The error rate for electronic filing is around 1 percent and the error rate in the paper world is 20 percent.

Now, one of the interesting things that we found in the electronic filing system is that there is a requirement. Justice comes in and says, "Even though you file electronically, you have got to have a signature document filed in a paper world." And Congressman Portman and I went down to visit a service center in Cincinnati.

Actually, it is in Kentucky, but since it is in his district, they claim it in Ohio.

In the trip through the service center, we talked to a number of employees and one of them said, "We appreciate this need for the signature document, but with the quality of machines that can copy these things today, all you have to do is sign it in black and you cannot tell whether it is an original or a copy anyway."

So it is not going to hold up in a court of law if the individual signs it in black and it comes down. All this is to say that you are quite right. I think at the end of the day, it has got to be the customer making the decision, the customers deciding what it is that they want to use, if they want to do it with paper or they want to do it electronically.

It is just, Senator, that there is such an impressive differential between cost of electronic and paper that the Commission came out on the side of saying that some goal for electronic filing ought to be part of the recommendation.

Senator FAIRCLOTH. Well, if I understood what you said, you could file a tax return and not sign it.

Senator KERREY. In the electronic world?

Senator FAIRCLOTH. Yes.

Senator KERREY. No; but you have to file a signature. The signature document has to be a part of the filing. You have to file a signature document on paper.

Senator FAIRCLOTH. But did I understand you to say, Senator, that it does not necessarily have to be your signature, that it could be—that the signature in the electronic process would not be recognizable or hold up in a court.

Senator KERREY. Well, that is true with any paper.

But there must be at least some evidence that the copy of the signature looks awfully close to the original. All I am saying is that even in the electronic world, even with electronic filing, there is a need for some paper trail.

Senator CAMPBELL. Thank you for your appearance, Senator Kerrey. We appreciate it.

Senator KERREY. You're welcome. Thanks.

GENERAL ACCOUNTING OFFICE

STATEMENT OF JAMES R. WHITE, ASSOCIATE DIRECTOR, TAX POLICY AND ADMINISTRATION ISSUES

ACCOMPANIED BY:

RONA STILLMAN, CHIEF SCIENTIST, INFORMATION SYSTEMS

DAVID ATTIANESE, ASSISTANT DIRECTOR, TAX GROUP

INTRODUCTION OF WITNESS

Senator CAMPBELL. The next panel of one will be Mr. James White, Associate Director for Tax Policy and Administrative Issues from the GAO. Mr. White, all of your written testimony will be included in the record. If you would like to abbreviate your comments, that would be fine.

STATEMENT OF JAMES R. WHITE

Mr. WHITE. Thank you.

Mr. Chairman and members of the subcommittee, I am pleased to be here today to discuss the budget of the Internal Revenue Service. With me are Rona Stillman, GAO's Chief Scientist responsible for much of GAO's work on IRS's information systems, and Dave Attianese, an assistant director in the tax issue area.

This year, the IRS will collect about $1.5 trillion in taxes with over 100,000 employees and a budget of about $7.2 billion. IRS's fiscal year 1998 budget request is for an increase somewhat less than the rate of inflation to almost $7.4 billion. The request includes a small decrease in full-time equivalent positions of less than 1 percent.

Table I.1 on page 26 of my statement summarizes the 1998 budget request and compares it to the 1997 budget. As you can see, the changes are small. Table I.2 on page 28 shows IRS's budget since 1991 in inflation-adjusted dollars. In these terms, IRS's budget has been decreasing since 1995 with an accompanying decrease in FTE's.

FISCAL YEAR 1997 ISSUES

Our statement makes the following main points. With respect to this year's budget, as directed by Congress, IRS did increase staffing for taxpayer service activities, and taxpayers' ability to get through to IRS on the phone during the 1997 filing season was up significantly.

IRS has canceled some projects costing $36 million that were included in its fiscal year 1997 information systems spending plans. This raises the question of whether the $36 million should be rescinded. In addition, we believe that the problems with IRS's private debt collection pilot program mean the fiscal year 1997 money

earmarked for future pilots should not be spent until the problems are corrected.

DEVELOPMENTAL INFORMATION SYSTEM

Shifting to the 1998 budget proposal, we have several points. First, $131 million for developmental information systems is included in the 1998 budget request and an additional $1 billion, spread over 1998 and 1999, is requested for a capital account for information technology investments. The $1 billion is not included in the $7.4 billion fiscal year 1998 request, but is in addition to it.

Neither the $131 million nor the $1 billion have been justified by the kinds of cost benefit analysis and other support required by current law and we believe Congress should consider not funding these amounts until they can be justified.

YEAR 2000 DATE CHANGE

Our second point is whether the $84 million included in the 1998 budget request for IRS's year 2000 date change effort will be sufficient. Because IRS is now planning to spend more than double the amount originally budgeted in 1997 on this effort and because IRS's overall conversion needs are still being determined, $84 million may be substantially less than what will be needed in fiscal year 1998.

Based in part on information we received late yesterday from IRS, the amount of fiscal years 1997 and 1998 spending needed to ensure year 2000 compliance may be several times what has been requested to date.

CONCLUSION

In conclusion, IRS and Congress face many challenges in trying to modernize our tax system. IRS has already experienced a decline in its inflation-adjusted budget and such real budget declines are likely to continue. At the same time, IRS is under pressure to improve its operations and taxpayer service.

All this makes modernizing its processes and information systems critically important. To do so requires consensus on IRS performance goals and how to measure performance. We believe the provisions of the Chief Financial Officers Act, the Clinger-Cohen Act, and the Government Performance and Results Act provide a mechanism for accomplishing this.

Mr. Chairman, that concludes my oral statement. I would be happy to respond to questions.

Senator CAMPBELL. OK. I thank you for that. As part of the fiscal year 1998 budget request, the IRS is asking for a $500 million advance appropriation for the information system, which is not to be obligated during fiscal year 1998. It is an up-front investment by Congress to demonstrate that we are committed to the modernization.

Can you give the committee any insight about how that money would be spent, Ms. Stillman?

Ms. STILLMAN. Unfortunately, Senator, we cannot because IRS cannot. There is no explanation. There have been no details provided as to precisely how that money would be spent. What they

have said is they want that account there, earmarked for such time as they determine how it should be spent.

Senator CAMPBELL. So we do not know what would happen if we do not fund it?

Ms. STILLMAN. Absolutely not. A key consideration to keep in mind is the availability of funds is no guarantee that you will get any good modernization results. In fact, you have provided IRS with over $4 billion in the past 10 years, but that has not gotten you modernization. An additional $1 billion, unless it is well-planned, will not get you modernization either.

Senator CAMPBELL. Well, that original $500 million advance, I am just informed by staff that the IRS is now asking for $258 million as of 2 days ago after my briefing book was submitted. So there is a pretty big disparity, which would tell me that somebody does not have any real plan for the money, if there is that big of a difference just in a few days of what they are asking for.

The request for comment on a prime contractor of IRS new modernization plan calls for a $250 million up-front investment by the prime and only a 3-year contract. Do you feel a prime can recoup their investment within the 3 years. Ms. Stillman again, if you would like to answer.

Ms. STILLMAN. Thank you, sir. We have not analyzed the details of the contracting arrangement between IRS and the prime, and as we understand to date, those details have not been worked out. In fact, IRS has asked the vendor community to give them suggestions for structuring a partnering arrangement.

Senator CAMPBELL. I see, OK. In the fiscal year 1997 Treasury appropriations bill, this subcommittee funded a private debt collection project which was to do a pilot allowing the private sector to collect on accounts that the IRS considered uncollectible. There has been some concern expressed by the private sector that this pilot was set up to fail by the IRS. My understanding is that GAO has recently studied this issue. First, do you have any comments on the success or the failure of that program?

Mr. WHITE. Mr. Chairman, there have been problems with the pilot program. In addition, there are two future pilots that are proposed. There is money in the fiscal year 1997 budget for a second pilot by IRS and a pilot by Treasury. Each of those would cost $13 million. Also, there is still $9 million, approximately, that has not been spent from the first pilot.

Because of the problems with the pilots, we believe that the money should not be spent at this time until the problems are corrected. We support pilot projects, we support the concept of testing using private contractors in the collection process, but there are problems with the current pilot.

Senator CAMPBELL. Thank you. I am going to submit a few questions written to you if you would also respond to them in writing. One last question to ask you, though. In the IRS fiscal year 1998 request, there is included an increase for 195 full-time equivalent employees and $11 million to process paper returns.

While the IRS is requesting an increase in paper returns processing employees, they are also projecting a steady increase in the number of taxpayers who are going to be filing electronically. So my question would be, with a growing number of electronic returns,

is there really a need for that many new employees to process paper returns?

Mr. ATTIANESE. Mr. Chairman, we had tried to get behind that request and the data we saw behind that request made little sense to us actually. The data the IRS was using showed that there was very little savings in FTE's from processing electronic returns versus processing paper returns.

It does not intuitively make any sense to us because as Senator Kerrey has mentioned, there are a lot fewer errors on electronic returns and you need a lot fewer people to process those returns and correct those errors. And so, the data behind IRS's study really led us to question what basis they had for asking for that additional staffing.

Senator CAMPBELL. OK, thanks. Just for the record, since you were not listed on the panel, would you identify yourself for the record?

Mr. ATTIANESE. David Attianese. I am an Assistant Director in GAO's Tax Group.

Senator CAMPBELL. Thank you. Senator Kohl.

Senator KOHL. Thank you, Mr. Chairman. Mr. White, the century date change is a potentially high risk area for the IRS. As you are probably aware, the IRS is requesting, as we have spoken of this morning, $258 million in fiscal year 1998 funding.

How confident are you in the IRS's ability to project the correct level of funding necessary?

Mr. WHITE. At this point, the Internal Revenue Service is still determining their total needs for century date conversion, and the estimates so far are not for the total needs. They have not determined their total needs yet.

For fiscal year 1997, we know that they have just requested reprogramming to more than double the amount that they requested in their fiscal year 1997 budget request, and that is for the same amount of work. They are not accelerating work for 1998 into 1997.

Senator KOHL. Mr. White, does it make sense that technology is purchased for the conversion that is separate from the architecture approval process? Ms. Stillman?

Ms. STILLMAN. As it has been structured, the year 2000 problem is part of IRS's stay-in-business effort and would have to be done whether they modernized or not. In order to move to January 1, 2000, it is mandatory that IRS become year 2000 compliant.

It is a nondiscretionary effort. We are currently in the process of analyzing their architecture, which weighs about 50 pounds. It is a substantial effort. It is unclear to us at this point how much it describes the current process and how much it describes a modernized set of processes, but we will be able to determine that at the end of our evaluation.

Senator KOHL. OK. It is our understanding that the IRS has been the subject of 140 GAO reports over the past 4 years. In reviewing the IRS progress over that time period, where, in your judgment, has the IRS made real progress in implementing the GAO recommendations and where, in your judgment, has there been little progress?

Mr. WHITE. The IRS has made some progress. They have developed an architecture, for example, as Ms. Stillman just indicated

and we are in the process of evaluating that. They have agreed not to spend money on developing new systems until the architecture is finalized and approved.

They have taken steps to increase electronic filing and to cut down on filing fraud by using, for example, electronic filters in the electronic filing process. With electronic filing, you can use those filters to weed out tax returns before refunds are issued. And so there are a number of steps that IRS has taken. There are still serious management weaknesses, many of which Senator Kerrey described.

Ms. STILLMAN. I would like to amplify on that a bit in the information technology area. In July 1995, we issued a report that made over a dozen specific recommendations for IRS to improve its ability to complete a successful tax systems modernization effort.

To date, although IRS has engaged in many activities related to implementing those recommendations, none of those recommendations have been completely implemented, none.

Senator KOHL. All right. Last question. Have you had a chance to think about and review the Kerrey report?

Mr. WHITE. We have not. The report has not been issued. We have worked closely with the commission on it, but I am not in a position to comment until we have seen the total package of recommendations, how the details will fit together.

Senator KOHL. All right. Without knowing what direction we may or may not then go in, are you comfortable with the current structure of IRS and the way in which it relates to Treasury Department?

Mr. WHITE. Well, as we have indicated, we believe that there are serious management weaknesses at IRS, and I would add that some of the points that Senator Kerrey made, for example, the importance of electronic filing, is a point that we have been making for years now in our reports.

Senator KOHL. Thank you. Thank you, Mr. Chairman.

Senator CAMPBELL. Senator Faircloth.

Senator FAIRCLOTH. Thank you, Mr. Chairman. Mr. White, I read the things in your report and they are just more than disturbing. I mean, literally millions of dollars—I am just trying to take an overall view—disappeared or cannot be accounted for, into thin air. I have been in business for 50-plus years now and they have been audited by the IRS many times over those years.

Actually, I must say it has always felt like it was fair and well-done, but they certainly expected a high degree of accuracy from various businesses I had that were being audited and we tried to provide it. That is over a period of time, but as I say, my opinion of the IRS is that the agents that I have worked with over many years have always been very satisfactory.

But to sit here and $4 billion, I think, went into the computer venture and a major portion of it wasted. Why has this happened? What is wrong?

Mr. WHITE. I think the fundamental problem again is some management weaknesses. They did not go into this with a strategic plan.

Senator FAIRCLOTH. Now, I have never run the IRS, but I have run a lot of businesses, but if a man cannot do it, we fire him. That

is the only way I know to solve a management problem. You can consult until you are dead with old age, but if you fire him, that gets rid of it pretty quick and you try again. Is that what needs to be done at the IRS?

Mr. WHITE. I think rather than comment on that, I would say that I think the IRS Commission is going to make some recommendations there. We have not had a chance to evaluate those recommendations. We do think that the problems we have identified with the IRS have to be solved by whatever new management structure is put into place.

Senator FAIRCLOTH. Billions of dollars that cannot be accounted for and you do not know whether people ought to be fired or not? In a private business, if you were running a private company, if you were running it, what would happen to these people, do you think, that work for NationsBank?

Mr. WHITE. As I said, the problems with IRS are systemic, longstanding problems. I am not sure I am in a position to identify an individual.

Senator FAIRCLOTH. In other words, nobody is accountable?

Mr. WHITE. There are certainly longstanding systemic problems at IRS that transcend any one administration. These problems are not recent. They are longstanding problems with IRS's systems, longstanding problems with IRS's ability to plan modernization.

Ms. STILLMAN. May I amplify on that just a little.

Senator FAIRCLOTH. I am sorry?

Ms. STILLMAN. May I amplify on that just a little.

Senator FAIRCLOTH. I would like it.

Ms. STILLMAN. I will try. Flawed decisions that led to spending $4 billion for TSM when we cannot demonstrate benefits anywhere near $4 billion were made from the start. IRS did not determine requirements effectively and could not answer the questions. What should be built? What is worth investing money in?

Those decisions were not made like a businessman would make them. A businessman would have asked, "Give me reliable figures on what this will cost. Give me a return on investment that is risk-adjusted for the technology risk. Make sure that at key times in the development of this project I can determine if I am getting what I was promised and if I am not getting what I was promised, I will terminate this." IRS has not managed that way.

In addition, they built and bought systems, in an undisciplined way. So their poor decisionmaking is a systemic problem exhibited from the top to the bottom of the organization.

Senator FAIRCLOTH. Well, Mr. Chairman, I just went through. We looked at the same thing, but the FAA is buying equipment for the Air Force. Amounts of money were very close. Has our Government gotten to where we are incapable of managing it?

Mr. WHITE. Senator, I think part of what you may be getting at is the importance of developing performance goals and performance indicators and being able to generate data from information systems to reliably track progress in meeting goals. The Government—and this is not unique to IRS—has not historically done a good job at that.

Recently, Congress has passed several acts that I mentioned in my testimony that we believe will begin to address this problem,

but developing performance goals is one thing. IRS does have a very clear mission statement. Developing information systems and being able to generate data to reliably track progress in meeting those goals is going to be hard.

It is not as simple as measuring profit in the private sector because Government has more than one goal. Government's goal is not simply to make profit.

Senator FAIRCLOTH. May I ask one quick question? I know I am not going to get a quick answer, but it would be a simple one. What would happen if the IRS went into a company and they had $13 billion in accounts receivable, $46 billion for collectible accounts receivable that could not be determined. What would the—two answers. What would the IRS do to that or, Senate, what would you do if you were running the company and found that sort of discrepancy?

Mr. WHITE. There is no doubt, and we have reported on this many times, that there are serious problems with IRS's accounts receivable. The receivables are very old. That has actually been part of the problem with the private debt collection pilot, that the receivables are so old they become very difficult to collect.

Again, the solution here is modernization. The problems with IRS are interdependent. The accounts receivable problem, part of that is due to the fact that IRS's information systems are antiquated, and so they do not have good information on their accounts receivables and they are old and therefore very difficult to collect.

Senator FAIRCLOTH. Thank you, Mr. Chairman. I am more confused than when I started.

Senator CAMPBELL. It was interesting to hear you state that you had been audited several times, Senator. I have only been audited once in my life. I was a House member and it happened just shortly after I cosponsored the Taxpayer's Bill of Rights. I was told, however, that there was no connection whatsoever and the other members that also cosponsored it when they were audited were also told there was no connection whatsoever.

Senator Shelby, did you have any comments or questions?

Senator FAIRCLOTH. Mr. Chairman, let me say. I have been into a number of businesses and had a number of businesses and I simply look on IRS audits as all in a day's work.

Senator CAMPBELL. OK. Senator Shelby.

PREPARED STATEMENT

Senator SHELBY. Mr. Chairman, I ask that my opening statement be made part of the record.

Senator CAMPBELL. With no objection, it will be.

[The statement follows:]

PREPARED STATEMENT OF SENATOR SHELBY

Mr. Chairman, I look forward to the testimony of today's witnesses. I am particularly interested in hearing about what progress the IRS has made in addressing the very serious and many concerns raised by the Committee last year about financial management and tax systems modernization. Thank you.

DEBT COLLECTION PRACTICES

Senator SHELBY. Mr. White, I was not here at the earlier part of the hearing, but I am very interested in the accounts receivable or the debt collection practices of the IRS. You will recall that this committee was in the forefront a couple of years ago to set up a pilot program that you mention in your report to collect debts.

We have talked to a lot of the people that collect debts for a living in the private sector every day and most of them told me and other members that the IRS criteria to collect the debts, they did not want to fool with them. They did not want to do this.

I wondered if the IRS had such a strong management, internal management bias against letting the private sector get involved in the collection of debts. I know they do because I remember the fight we had on the floor of the Senate and in the conference. But if the IRS has, and I have been told, anywhere from $80 to $100 billion of accounts receivable, is that about right?

Mr. WHITE. Yes, sir.

Senator SHELBY. In America, and they are not collecting it, what is wrong with turning over that to the private lawyers that specialize in collections in the commercial sector every day and see? That was our intent, to see if it would work. Heck, if they collected $10 billion, it would be a lot of money for us up here.

But I noted, with a lot of skepticism, the reluctance of the internal workings of the IRS about letting the market work here. Give an incentive for people to collect; yet, those debts, as you mentioned, are getting older and the older they get, the harder they are to collect. You want to comment on that?

Mr. WHITE. Yes; as I said, we believe that testing the use of private contractors in debt collection is very useful. Unfortunately, the pilot that has been underway has had some serious problems with it.

Senator SHELBY. Let's talk about some of those.

Mr. WHITE. An example would be that IRS is apparently unable to pay contractors on a contingency basis, a percentage of what they bring in. So instead, payments have been made to contractors in cases that were greater than the amount of taxes actually collected in the case.

Senator SHELBY. That makes no sense, does it?

Mr. WHITE. No; it does not.

Senator SHELBY. Would you need legislation to change that? For example, collection professionals and lawyers that specialize in collections, which is part of the everyday life in America, collect billions of dollars each year. They work on a percentage. If they do not deliver, they do not eat. In other words, they do not get anything. Is there a prohibition in the IRS's law against paying a commission?

Mr. WHITE. I am not prepared to speak on that.

Senator SHELBY. Can you find out?

Mr. WHITE. I can do that and we can get back to you quickly. We have done some analysis on this, and as I said, because of the problems in the pilot, we do not believe that further money should be given.

[The information follows:]

According to IRS' Office of Chief Counsel, it is not entirely clear whether IRS is prohibited from paying a commission. On one hand, the Chief Counsel's Office points to congressional concern, as reflected in Taxpayer Bill of Rights I, that IRS collection employees not be evaluated based on collection results. The fear has been that paying collectors commissions or contingency fees based on how much they collect could induce them to engage in abusive tactics that violate taxpayers' rights. On the other hand, it is not clear how this limitation on evaluating IRS employees applies to compensating private sector collectors.

In attempting to address this tension, IRS structured the contracts so that payments would be made for actions such as successfully locating and contacting delinquent taxpayers and that the payments could increase with increased revenue collection resulting from such actions.

Senator SHELBY. Oh, I agree. I do not think it should be wasted and I appreciate the analysis that you are doing on that. Some of us were dumbfounded that the IRS did not move out front on this and try to collect the money. I do not think they are going to collect it internally, it seems that way, when there is $80 to $100 billion sitting around and there are people in America that are telling us they can collect it.

I believe they could collect a lot of it, maybe not all. But just say 10 percent, $10 billion, 20 percent of the billions of dollars, a lot of money, isn't it?

Mr. WHITE. Yes.

Senator SHELBY. I am sure you have been asked this question already and we have beaten—we have not beaten it to death yet because I do not think the IRS is sufficiently modernized yet, but the amount of money that has been spent in tax management, tax system modernization, is a travesty.

I, when I chaired this committee, was involved in trying to get the IRS to modernize, to get outside people to go to the shelf, so to speak. I have had a lot of the financial people telling us basically that the IRS was so far behind the market in software and everything that goes with it that they need to—you know, they were working off of a system that was 10 years old when they started, so to speak.

I do not know if those are the exact years. In other words, they were looking backward and they were trying to do a lot of this internally, were they not?

Mr. WHITE. Yes.

Senator SHELBY. What is your recommendation there? That they go outside?

Mr. WHITE. I will let Ms. Stillman answer this, but I think what is key here is management, again, and contracting out——

Senator SHELBY. It is at the top, is it not?

Mr. WHITE. Yes; and in order to get the benefits of contracting out, you still have to have good management.

Senator SHELBY. Well, you have got to start with the management, like the Senator from North Carolina just brought out. Without management, somebody has to be responsible and it starts at the top, doesn't it? Somebody has to be accountable in the Government as well as the private sector.

When you have an expenditure of some $4 billion and there are a lot of people that spent that money, made those decisions that are probably still around in some capacity, something is wrong. You want to comment on that?

Ms. STILLMAN. Thank you, sir. There is no question that there are major problems. Bad decisions have been made starting at the top of the organization and implementation has been undisciplined as well on the way down. As to whether or not contracting out will provide an answer to IRS's modernization problems, the answer is that contracting out, per se, will not provide an answer.

Whether you contract out——

Senator SHELBY. Say that again. Wait a minute.

Ms. STILLMAN. Neither contracting out nor building in-house is the key to successful modernization. Those are two methods of doing the right thing once you have determined what the right thing is.

Senator SHELBY. What is the key?

Ms. STILLMAN. The key is to determine what the right thing is, what a good return on investment would be, and managing it well.

Senator SHELBY. That is the role of top management to do that, is it not?

Ms. STILLMAN. Top, bottom, and middle, correct. Absolutely true. Absolutely true.

Senator SHELBY. Does IRS have, in your judgment, the quality of top management to make those decisions? That is a good question now to answer.

Ms. STILLMAN. That is a very good question.

Senator SHELBY. Do they have it? And if they do not have it, as the Senator from North Carolina said a minute ago, he used one of our major banks in the country that happens to be headquartered out of North Carolina, NationsBank, but it could be any big bank since we are dealing in financial situations.

Somebody in the marketplace, $4 billion not only would one or two heads be rolling, I think the whole organization would be gone. Yet, IRS is still perking along and it is business as usual, I think, from what we read about your report. There has not, in the last 2 years, Mr. Chairman, to my knowledge, been any wholesale changes in IRS.

I know Senator Kerrey and I, when I was the chairman of this committee, Mr. Chairman, and he was the ranking Democrat, was very involved, as he is today, in the modernization changes of the IRS.

I think the American people deserve better. I think these businesses deserve better. And I think the people that work at IRS deserve the top quality management or leadership.

Ms. STILLMAN. We agree with you 100 percent.

Senator SHELBY. How do we get it?

Ms. STILLMAN. Actually, the Appropriations Committees control IRS's resources. And by ratcheting down their budgets to reflect their performance, I think you will get their attention.

Senator SHELBY. Well, we did some of that 2 years ago, as you will recall. We cut about $1 billion——

Ms. STILLMAN. Absolutely.

Senator SHELBY. And 5,000 employees and they still maybe have not gotten the message. Mr. Chairman, I know you are very interested in this, to make IRS an efficient part of our Government. One last question, Mr. Chairman. I appreciate your indulgence.

Does IRS have the capability to make that decision? It is similar to what I have just asked a minute ago. Do they have the management in place to make the decisions that they need to make to modernize the Internal Revenue Service?

Ms. STILLMAN. I think they have admitted themselves that——

Senator SHELBY. That they do not.

Ms. STILLMAN. They need augmentation at the very least. They are hiring additional people and trying to bring in a new Commissioner with a set of skills that they have not seen before. They will also get help from Treasury and/or the governing board.

Senator SHELBY. Mr. Chairman, thank you.

Senator CAMPBELL. We still have five witnesses, so we are going to need to move along here.

Senator FAIRCLOTH. I have just one quick question.

Senator CAMPBELL. Go ahead, Senator Faircloth.

Senator FAIRCLOTH. Senator Shelby, you were talking about the IRS hiring outside collection agencies, right?

Senator SHELBY. That is right, or lawyers.

Senator FAIRCLOTH. If ever there was an organization that has the ability to go after a gnat with a hammer, it is the IRS. Hardly a week or 2 weeks go by that we do not get a certified letter to garnish either wages of this or that employee who is behind in taxes and, of course, we do it.

But it is standard. I mean, a collection agency? I mean, they could steal a lockbox. The IRS can do anything to collect money, almost unlimited authority and power to collect money. I mean, they believe in the hereafter and they go after it.

Senator CAMPBELL. Did you have a question of the panel?

Senator FAIRCLOTH. What?

Senator CAMPBELL. Did you have a question of the panel?

Senator FAIRCLOTH. Yes; why do you need an outside collection agency?

Mr. WHITE. Part of what the collection pilot was focusing on was finding taxpayers that the IRS had been unable to locate.

Senator FAIRCLOTH. Thank you, Mr. Chairman.

PREPARED STATEMENT

Senator CAMPBELL. OK. I thank this panel for appearing. Mr. White, we have your complete statement and it will be made part of the record.

[The statement follows:]

PREPARED STATEMENT OF JAMES R. WHITE

IRS' fiscal year 1998 budget request is for about $7.4 billion and 102,385 full-time equivalent (FTE) staff compared to a proposed operating level in fiscal year 1997 of about $7.2 billion and 102,926 FTE's. IRS' fiscal year 1998 budget request includes $131 million for developmental information systems, the same amount that was provided in fiscal year 1997. The administration also is proposing a $1 billion capital account for IRS information technology investments. Neither the $131 million or the $1 billion is supported by the kind of analysis required by Clinger-Cohen Act, the Results Act, and the Office of Management and Budget. Therefore, Congress should consider not funding both the $131 million request and the capital account until management and technical weaknesses in IRS' modernization program are resolved and required analyses are completed.

The fiscal year 1998 budget request also includes $84 million for IRS' turn of the century date change effort. IRS has already determined that it will need $61.2 million more for this effort in fiscal year 1997 than had been allocated. Given that and

because IRS' overall conversion needs are still being determined, it seems reasonable to question whether the amount requested for this effort in fiscal year 1998 will be sufficient.

GAO also has some concerns about certain fiscal year 1997 budget allocations. For example, IRS' fiscal year 1997 appropriation mandated that a total of $26 million be provided for debt collection pilots. GAO's review of the 1996 debt collection pilot identified various problems that impeded the pilot's success. Until those problems are resolved, GAO believes that IRS and Treasury should be prohibited from spending the $26 million. Also, given that IRS has decided not to begin any new systems development projects until October 1998, GAO believes that Congress should consider rescinding $36 million that was designated for that purpose in fiscal year 1997. That amount represents the total allocated to systems development projects that IRS has canceled for fiscal year 1997. By October 1998, IRS expects to have developed the internal capability to effectively manage systems development.

Finally, IRS expects the funding limits it faces in fiscal year 1997 and anticipates for fiscal year 1998 to continue until at least 2002. Fiscal constraints as well as longstanding concerns about the efficiency of IRS operations make consensus on IRS' strategic goals and the measures for assessing progress against those goals critically important. The provisions and requirements of the Chief Financial Officers Act, the Clinger-Cohen Act, and the Results Act provide a mechanism for accomplishing this.

Mr. Chairman and Members of the Subcommittee:

We are pleased to be here today to participate in the Subcommittee's inquiry into the Internal Revenue Service's (IRS) budget request for fiscal year 1998. Our statement is based on a review of that budget request; a review of steps taken by IRS in response to its fiscal year 1997 appropriation, including its spending plans for information systems; and our past work on IRS' operations and systems modernization efforts.

IRS' fiscal year 1998 budget request is for about $7.4 billion and 102,385 full-time equivalent (FTE) staff compared to a proposed operating level in fiscal year 1997 of about $7.2 billion and 102,926 FTE's. Appendix 1 provides a more detailed comparison of fiscal years 1998 and 1997 along with data showing how IRS' appropriation has changed since fiscal year 1991. Appendix II has trend information for several of IRS' performance indicators.

Our statement makes the following points:

—In response to congressional concerns and direction, IRS allocated about 1,000 additional FTE's to taxpayer service activities in fiscal year 1997 and revised its fiscal year 1997 information systems spending plans. IRS has since canceled some of the projects that were included in those plans and that it had estimated would cost a total of $36 million in fiscal year 1997.

—Our review of IRS' private sector debt collection pilot program identified significant barriers to the pilot's success. Those problems should be resolved before fiscal year 1997 funds earmarked for private sector debt collection pilots are expended.

—IRS' fiscal year 1998 budget request includes $131 million for developmental information systems, the same amount that was provided in fiscal year 1997. In addition to that basic request, the administration is proposing a capital account for information technology investments at IRS—$500 million for fiscal year 1998 and another $500 million for 1999. Neither the $131 million or the $1 billion is supported by the type of analysis required by the Clinger-Cohen Act, the Government Performance and Results Act (otherwise known as the Results Act or GPRA), and Office of Management and Budget (OMB) Circular No. A–11.

—The budget request also includes $84 million for IRS' turn of the century date change effort. IRS has already determined that it will need several million dollars more for this effort in fiscal year 1997 than had been allocated. Given that and because IRS' overall conversion needs are still being determined, it seems reasonable to question whether the amount requested for this effort in fiscal year 1998 will be sufficient.

—IRS is also requesting funds to replace two old systems used to process paper returns and remittances. Because spending on this project has been accelerated in fiscal year 1997, all of the funding being requested for 1998 may not be needed.

—The largest staffing increase in IRS' budget request is for 195 FTE's (with an associated cost of $11 million) to process a projected increase in the number of tax returns filed in 1998. IRS expects that most of the additional returns will be filed electronically. Data IRS used to determine how much more money and staff it needed to process those additional returns show only a small difference between the number of FTE's needed to process a million electronic returns and

the number needed to process a million paper returns. That small difference is inconsistent with what we would have expected and may reflect, at least in part, the fact that electronic filing is not truly paperless.

—Finally, IRS and Congress face many challenges in moving the nation's tax system into the next millennium. Funding limits faced by IRS in fiscal year 1997 and anticipated for fiscal year 1998 are projected to continue until at least 2002. Fiscal constraints as well as longstanding concerns about the operations and management of IRS make consensus on IRS performance goals and measuring progress in achieving those goals critically important. The provisions and requirements of the Chief Financial Officers Act, Clinger-Cohen Act, and Results Act provide a mechanism for accomplishing this.

OVERVIEW OF 1997 APPROPRIATION ISSUES

Before discussing the fiscal year 1998 budget request, it might be useful to summarize some of the issues associated with IRS' fiscal year 1997 appropriation. The appropriation act[1] and accompanying conference report[2] for fiscal year 1997 indicated that Congress was concerned about various aspects of IRS' operations. Among other things, Congress expressed concern about (1) Tax Systems Modernization (TSM) and the need to direct more systems development work to the private sector; (2) TSM funds being directed at "feeding the beast" rather than at true modernization; (3) the ability of taxpayers to reach IRS over the telephone; and (4) the need to maintain taxpayer service at fiscal year 1995 levels, at a minimum.[3]

In response to its fiscal year 1997 appropriation and the congressional direction specified therein, IRS, among other things, (1) revised its spending plans for information systems and (2) reallocated resources within the processing, assistance, and management account to direct more FTE's to taxpayer service activities.

Another issue associated with IRS' fiscal year 1997 appropriation involves funding provided for private sector debt collection pilot programs. We believe that spending on those programs should be prohibited until various problems we identified have been resolved.

IRS' fiscal year 1997 Systems Spending Plans Appear Consistent With Congressional Direction, But $36 Million May No Longer Be Needed

For fiscal year 1997, IRS was appropriated about $1.3 billion to fund its information systems. The appropriation act specified that the $1.3 billion be spent as follows:

—$758.4 million for legacy systems,
—$206.2 million for TSM operational systems,
—$130.1 million for TSM development and deployment,
—$83.4 million for program infrastructure,
—$62.1 million for "stay-in-business" projects,
—$61.0 million for staff downsizing, and
—$21.9 million for telecommunication network conversion.

IRS' plans for spending its fiscal year 1997 information systems appropriation and IRS' obligations through December 31, 1996, appear consistent with the act's direction. Specifically, at the beginning of fiscal year 1997, we judgmentally selected eight projects, totaling approximately $197 million, that IRS planned to fund with its information systems appropriation and analyzed each relative to the categories and amounts specified in the act. Our analysis showed that IRS identified its projects in accordance with the legislative categories and that all of the projects we reviewed appeared to be consistent with the act's categories and spending levels.

In analyzing IRS' spending, we found that IRS had 15 projects that were used to justify the allocation of $130.1 million for systems development and deployment. Of the 15 projects, 9 (with fiscal year 1997 costs totaling about $87.3 million) were ongoing or completed. IRS is reviewing one other project that was used to justify $7 million and canceled the remaining five projects, which had projected fiscal year 1997 costs totaling about $36 million.

According to IRS' Chief Information Officer (CIO), IRS canceled these systems because business case analyses did not justify continued development. The canceled projects include the Corporate Accounts Processing System, the Integrated Case Processing System, and the Workload Management System.

The CIO also stated that IRS will not start any new system development projects until about October 1998, after it has developed the internal capability needed to

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[1] The Omnibus Consolidated Appropriations Act (P.L. 104–208, Sept. 30, 1996).
[2] H.R. report No. 863, 104th Cong., 2d Sess. (1996).
[3] Congress added this requirement because it was concerned that IRS' pending reorganization of certain field activities would adversely affect taxpayer service.

effectively manage such projects. Therefore, Congress should consider rescinding the $36 million that IRS will not be using for systems development and deployment in fiscal year 1997.

As noted earlier, $61 million of IRS' fiscal year 1997 information systems appropriation was allocated for staff downsizing. We question whether all of the $61 million will be needed for that purpose. IRS had requested those funds to downsize its information systems staff by 819 positions. According to IRS' Chief for Management and Administration, however, attrition among information systems staff has been higher than expected and IRS' downsizing plans, as of March 3, 1997, included only 228 information systems positions.

Increased Resources Provided for Taxpayer Service in 1997

Given congressional concerns about the level of taxpayer service and the low level of telephone accessibility documented in several of our reports,[4] IRS decided that its highest priority in 1997, other than processing returns and refunds, would be to improve taxpayer service, especially the ability of taxpayers to reach IRS on the phone. One important step IRS took to achieve that end was to increase the number of FTE's devoted to taxpayer service. According to IRS estimates, the number of taxpayer service FTE's will increase from 8,031 in fiscal year 1996 to 9,091 in fiscal year 1997. The estimated number of FTE's for fiscal year 1997 is also higher than in fiscal year 1995, which is in accord with congressional direction in IRS' fiscal year 1997 appropriation. According to IRS budget officials, some of these additional FTE's were achieved by reallocating resources originally targeted for submission processing; the rest were funded with user fees that IRS is authorized to retain.

The bulk of the staffing increase for taxpayer service is directed at helping taxpayers reach IRS by telephone. In addition to the increase in taxpayer service FTE's discussed above, IRS also detailed staff from other functions to help answer the phone, including staff who would normally be doing compliance work. This increased staffing, along with other steps IRS took, seems to have succeeded in significantly improving telephone accessibility during the 1997 tax return filing season. As discussed in more detail in appendix III, accessibility increased from 20.1 percent during the 1996 filing season to 50.9 percent during the 1997 filing season.

Problems With IRS' Private Debt Collection Pilot

As part of IRS' fiscal year 1997 appropriation, Congress mandated that $13 million be made available to extend the private sector debt collection pilot program that was initiated in fiscal year 1996. An additional $13 million was earmarked for a second private debt collection pilot to be managed by the Department of the Treasury. To date, none of the $26 million has been obligated.

At the request of the Chairman of the Oversight Subcommittee, House Committee on Ways and Means, we evaluated the initial pilot and found significant legal, systems and operations, and performance measurement barriers to the pilot's success. Specifically we found that

—IRS' legal interpretations prevented the pilot from being a true test of private contractors' ability to collect delinquent taxes;

—systems and operations problems made it difficult to identify, select, and transmit cases to the contractors; and

—the pilot lacked appropriate performance measures to identify and capture the best practices and techniques used by private collectors.

IRS agreed with our findings.

On the basis of our findings, the Chairmen of the Oversight Subcommittee; the Subcommittee on Treasury, Postal Service, and General Government, House Committee on Appropriations; and the Subcommittee on Government Management, Information, and Technology, House Committee on Government Reform and Oversight informed the Secretary of the Treasury that contracts should not be awarded at this time for the Treasury-managed pilot.

Until the issues jeopardizing the success of the pilots are resolved, we believe that IRS and Treasury should be prohibited from spending both the $13 million to extend the ongoing IRS pilot and the $13 million earmarked for the Treasury-managed private debt collection pilot.

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[4] *Tax Administration: Continuing Problems Affect Otherwise Successful 1994 Filing Season* (GAO/GGD–95–5, Oct. 7, 1994); *The 1995 Tax Filing Season: IRS Performance Indicators Provide Incomplete Information About Some Problems* (GAO/GGD–96–48, Dec. 29, 1995); and *IRS' 1996 Tax Filing Season: Performance Goals Generally Met; Efforts to Modernize Had Mixed Results* (GAO/GGD–97–25, Dec. 18, 1996).

FISCAL YEAR 1998 BUDGET REQUEST FOR INFORMATION SYSTEMS RAISES SEVERAL QUESTIONS

IRS' fiscal year 1998 budget request includes $1.27 billion and 7,162 FTE's for information systems. Of the $1.27 billion, $1.14 billion is for operational systems, including funds for IRS' century data change effort and for replacing two old processing systems. The rest of the request ($131 million) is for developmental systems. In addition to the $1.27 billion, the administration is requesting $1 billion over 2 years to fund a multi-year capital account, referred to as the Information Technology Investments Account, for new modernization projects at IRS.

Our analysis of the information systems request raised several questions: (1) Should Congress approve the $131 million for developmental systems and the $1 billion capital account given the absence of the kind of supporting analyses required by the Clinger-Cohen Act, the Results Act, and OMB? (2) Is the money being requested for IRS' century date conversion effort sufficient? and (3) Will IRS need all of the money requested for replacing two processing systems?

$131 Million Budget Request for Systems Development Not Justified

The Clinger-Cohen Act, the Results Act, and OMB Circular No. A–11 and supporting memoranda require that information technology investments be supported by accurate cost data and convincing cost-benefit analyses. For fiscal year 1998, IRS is requesting $131 million for system development. However, IRS' request does not include a credible, verifiable justification. According to IRS budget officials, $131 million was requested for fiscal year 1998 because it was approximately the same amount IRS received in fiscal year 1997 for system development.

The budget request states that IRS does not know how it plans to spend the $131 million because its modernization systems architecture and system deployment plan have not yet been finalized. IRS publicly issued a draft version of these documents on May 15, 1997, and provided them to private industry for review and comment by July 15, 1997. Once finalized, these documents are intended to guide future systems development.

No Justification to Support Billion Dollar Information Technology Investments Account

The administration is proposing to establish an Information Technology Investments Account to fund future modernization investments at IRS. It is seeking $1 billion—$500 million in fiscal year 1998 and another $500 million in fiscal year 1999—for "yet-to-be-specified" development efforts. According to IRS' request, the funds are to support acquisition of new information systems, expenditures from the account will be reviewed and approved by Treasury's Modernization Management Board (MMB), and no funds will be obligated before July 1, 1998.

The Clinger-Cohen Act, the Results Act, and OMB Circular No. A–11 and supporting memoranda require that, prior to requesting multi-year funding for capital asset acquisitions, agencies develop accurate, complete cost data and perform thorough analyses to justify the business need for the investment. For example, agencies need to show that needed investments (1) support a critical agency mission; (2) are justified by a life cycle based cost-benefit analysis; and (3) have cost, schedule, and performance goals.

IRS has not prepared such analyses for its fiscal year 1998 and 1999 investment account request. Instead, IRS and Treasury officials stated that, during executive-level discussions, they estimated that they would need about $2 billion over the next 5 years. This estimate was not based on analytical data or derived using formal cost estimating techniques. According to OMB officials responsible for IRS' budget submission, the request was reduced to $1 billion over 2 years because they perceived the lesser amount as more palatable to Congress. These officials also told us that they were not concerned about the precision of the estimate because their first priority is to "earmark funds" in the fiscal year 1998 and 1999 budgets so funds will be available when IRS eventually determines how it wants to modernize its systems.

IRS and Treasury Are Still Addressing Modernization Weaknesses

In 1995 we made over a dozen recommendations to the Commissioner of Internal Revenue to address systems modernization management and technical weaknesses.[5] We reported in 1996 that IRS had initiated many activities to improve its mod-

[5] *Tax Systems Modernization: Management and Technical Weaknesses Must Be Corrected If Modernization Is to Succeed* (GAO/AIMD–95–156, July 26, 1996).

ernization efforts but had not yet fully implemented any of our recommendations.[6] Congress also took steps to improve the modernization effort. Specifically, in the fiscal year 1997 Omnibus Appropriations Act,[7] Congress directed IRS to (1) submit by December 1, 1996, a schedule for transferring a majority of its modernization development and deployment to contractors by July 31, 1997, and (2) establish a schedule by February 1, 1997, for implementing our recommendations by October 1, 1997. In its conference report on the act, Congress directed the Secretary of the Treasury to (1) provide quarterly reports on the status of IRS' corrective actions and modernization spending[8] and (2) submit by May 15, 1997, a technical architecture for the modernization that had been approved by the MMB. Additionally, the MMB was directed to prepare a request for proposal by July 31, 1997, to acquire a prime contractor to manage modernization deployment and implementation.

IRS and Treasury have taken steps to address our recommendations and respond to congressional direction. For example, in response to the 1997 appropriations act, IRS (1) provided a November 26, 1996, report to Congress that set forth IRS' strategic plan and schedule for shifting modernization development and deployment to contractors and (2) submitted to Congress a February 27, 1997, report on the timetable for implementing our recommendations. For its part, Treasury (1) provided corrective action and spending reports to Congress for the first quarter of fiscal year 1997 and (2) submitted an MMB-approved architecture to Congress on May 15, 1997, that the department and IRS have circulated to private industry for review and comment. As part of this effort, Treasury and IRS are also soliciting private industry input on prime contractor management strategies.

To assess the effectiveness of IRS' efforts to date, we are reviewing IRS' (1) recently issued modernization architecture, (2) capability to acquire software-intensive systems using contractors, and (3) information technology investment management process. While the results of these reviews are not yet known, it is important to reiterate what we have said before—until IRS fully implements our recommendations, its systems modernization will continue to be at risk.[9]

Given IRS' poor track record delivering cost-beneficial TSM systems and the lack of justification for proposed system expenditures, Congress should consider not funding both the $131 million request for systems development and the $1 billion capital account until the management and technical weaknesses in IRS' modernization program are resolved and the required justifications are completed.

Funding Needs for Century Date Change Are Uncertain

IRS, like other federal agencies, is in the midst of a major project aimed at making its computer systems "century date compliant." Because IRS' systems, like many others in government and the private sector, use two-digit date fields, they cannot distinguish, for example, between the year 1900 and the year 2000 (the systems would show both years as "00"). IRS estimates that the failure to correct this situation before 2000 could result in millions of erroneous tax notices, refunds, and bills. Accordingly, IRS' CIO has designated this effort as a top priority. The CIO established a year 2000 project office to coordinate work among the various IRS organizations with responsibility for assessing, converting, and testing IRS systems.

IRS' current plans are to spend $106.2 million on century date conversion efforts in fiscal year 1997. This would exceed its fiscal year 1997 budget by $61.2 million. Of this amount,

—$47.7 million is for non labor costs (e.g., the purchase of updated operating system environments, contractor support for software conversion and testing, and additional hardware for expected capacity increases) and

—$13.5 million is for additional labor costs, which is to come from IRS' existing budget for overall information systems staffing.

To meet these needs, IRS is seeking approval to reprogram some fiscal year 1997 funds from other accounts and to use available "no-year" TSM funds. In addition, the Chief Financial Officer's organization is conducting an IRS-wide review to identify other sources of funding should they be needed.

IRS' fiscal year 1998 budget request includes another $84 million for the century date change effort. It is uncertain, however, if this amount will be sufficient to address IRS' century date funding needs for fiscal year 1998. The fiscal year 1998 request was based on September 1996 cost estimates that, in turn, were based on an

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[6] *Tax Systems Modernization: Actions Underway But IRS Has Not Yet Corrected Management and Technical Weaknesses* (GAO/AIMD–96–106, June 7, 1996).

[7] public Law 104–208, September 30, 1996.

[8] H.R. Report No. 863, 104th Cong., 2d sess. (1996). Congress also required that Treasury provide a schedule for developing and implementing all modernization projects in Treasury's fiscal year 1996 appropriations act (Public Law 104–52, Nov. 19, 1995).

[9] *GAO High-Risk Series, IRS Management* (GAO/HR–97–8, Feb. 1997).

estimate of lines of computer code for IRS' main tax processing systems. However, there are potentially significant costs in other areas for which IRS has yet to complete initial assessments, including (1) secondary tax processing systems that are also critical to the tax administration process; (2) telecommunications; (3) commercial off-the-shelf software; and (4) non-information technology resources, such as elevators and heating and air conditioning units. IRS has efforts underway to address each of these areas. For example, IRS recently formed a committee of executives to address options for dealing with secondary systems. By the end of June, the committee expects to have made decisions on which of these systems will or will not be converted. IRS officials said that they expect to have a complete cost estimate for converting these systems by September 1997.

Replacement of Systems That Process Paper Tax Returns and Remittances

Also as part of its information systems request, IRS is asking for $44 million in fiscal year 1998 to continue developing replacements for two systems—the Distributed Input System (a 12-year old system used to process paper returns) and the Remittance Processing System (an 18-year old system used to process tax payments)—and to begin pilot testing in January 1998. IRS reports that the systems are unreliable, costly to operate and maintain, and not year 2000 compliant.

Project officials told us that to meet the January 1998 milestone for piloting the new systems, an additional $6.1 million of fiscal year 1997 money has been reprogrammed to the Distributed Input System/Remittance Processing System replacement project. Consequently, the project will not need this $6.1 million in fiscal year 1998. Accordingly, Congress should consider reducing the fiscal year 1998 request for this project by $6.1 million.

REQUEST FOR ADDITIONAL RETURNS PROCESSING STAFF RAISES QUESTIONS ABOUT BENEFITS OF ELECTRONIC FILING

IRS' largest requested budget increase is for $214 million and 195 FTE's to maintain its fiscal year 1997 program levels in fiscal year 1998. According to IRS, most of the $214 million is needed to cover pay and benefits for the employees it has on board. However, $11 million and all 195 FTE's are intended to cover "mandatory workload increases" in its returns processing function. More specifically, IRS has projected that the number of primary tax returns filed will increase from 197.9 million in 1997 to 200 million in 1998. IRS has also projected that 91 percent of the increase in primary tax returns (or 1.9 million returns) will be filed electronically.

The data IRS used to determine its need for $11 million and 195 FTE's indicated that IRS only saves about 5 FTE's for every 1 million returns that are filed electronically. This is contrary to what we would have expected. Because up-front filters keep certain taxpayer errors that are common on paper returns from contaminating electronic returns and because electronic returns bypass the labor intensive and error prone key punching process IRS uses for paper returns, we would expect that the labor and related costs to process electronically-filed returns would be substantially lower than the labor and costs associated with processing paper returns. According to IRS budget officials, IRS has an effort underway to determine the comparative cost of processing electronic and paper tax returns. They expect that study to be completed in September 1997.

At least part of the smaller-than-expected savings from electronic filing can be attributed to the fact that electronic filing is not truly paperless. Taxpayers filing electronically, other than through TeleFile, must submit a paper signature document to authenticate the electronic portion of their return. And IRS has to process that document. In January 1993, we reported that to significantly increase the use of electronic filing IRS would have to resolve various issues that adversely affect the appeal of electronic filing.[10] One of those issues is the requirement to submit paper documents with an electronic return.

CHALLENGES FOR THE FUTURE

As discussed earlier, IRS data indicate that taxpayers had a much better chance of reaching IRS by telephone during the 1997 filing season than they had in 1996. This improvement, however, was not without cost. IRS used various strategies to improve accessibility, one of which involved detailing staff from other functions, including staff who would otherwise be auditing tax returns, to answer the phone. The funding limits and program tradeoffs faced by IRS in fiscal year 1997 and anticipated for fiscal year 1998 are likely to continue for the foreseeable future. The ad-

[10] *Tax Administration: Opportunities to Increase the Use of Electronic Filing* (GAO/GGD–93–40, Jan. 22, 1993).

ministration's outyear projections actually reflect a decline in IRS funding when inflation is considered.

At the same time, IRS is faced with competing demands and pressure from external stakeholders, including Congress, to improve its operations and resolve long-standing concerns. Modernization of IRS' processes and systems is critical to doing this. So is reaching consensus on IRS' strategic goals and performance measures.

In recent years, Congress has put in place a statutory framework for addressing these challenges and helping Congress and the executive branch make the difficult trade-offs that the current budget environment demands. This framework includes as its essential elements the Chief Financial Officers Act; information technology reform legislation, including the Paperwork Reduction Act of 1995 and the Clinger-Cohen Act; and the Results Act, or GPRA.

In crafting these acts, Congress recognized that congressional and executive branch decisionmaking had been severely handicapped by the absence in many agencies of the basic underpinnings of well managed organizations. We have found numerous examples across government of management-related challenges stemming from unclear missions accompanied by the lack of results-oriented performance goals, the absence of detailed business strategies to meet those goals, and the failure to gather and use accurate, reliable, and timely program performance and cost information to measure progress in achieving results. All of these problems exist at IRS. To effectively bridge the gap between IRS' current operations and its future vision while living within the budget constraints of the federal government, these challenges must be met.

Under GPRA, every major federal agency must ask itself some basic questions: What is our mission? What are our goals and how will we achieve them? How can we measure performance? How will we use that information to make improvements? GPRA forces a focus on results. GPRA has the potential for adding greatly to IRS performance—a vital goal when resources are limited and public demands are high.

GPRA requires each agency to develop a strategic plan that lays out its mission, long-term goals, and strategies for achieving those goals. The strategic plans are to take into account the views of Congress and other stakeholders. To ensure that these views are considered, GPRA requires agencies to consult with Congress as they develop their strategic plans.

Congress and the administration have both demonstrated that they recognize that successful consultations are key to the success of GPRA and therefore to sustained improvements in federal management. For IRS, these consultations provide an important opportunity for Congress, IRS, and Treasury to work together to ensure that IRS' mission is focused, goals are specific and results oriented, and strategies and funding expectations are appropriate and reasonable. The consultations may prove difficult because they entail a different working relationship between agencies and Congress than has generally prevailed in the past. The consultations are likely to underscore the competing and conflicting goals of IRS programs, as well as the sometimes different expectations of the numerous parties involved.

As a GPRA pilot agency, IRS should be ahead of many federal agencies in the strategic planning and performance measurement process. Nonetheless, IRS remains a long way from being able to ensure that its budget funds the programs that will contribute the most towards achieving its mission goals. While IRS needs more outcome-oriented indicators, it also has difficulty in measuring its performance with the indicators it has. For example, IRS' top indicator is its Mission Effectiveness Indicator. This is calculated by subtracting from the revenue collected the cost of IRS programs and taxpayer burden and dividing that result by true total tax liability. While this approach may be conceptually sound, IRS does not have reliable data to calculate taxpayer burden nor can it calculate true total tax liability.

In summary, there are several questions regarding IRS' fiscal year 1997 spending and IRS' fiscal year 1998 budget request that the Subcommittee may wish to consider. Among these are:

—Should the $36 million that IRS will not be using for systems development and deployment in fiscal year 1997 be rescinded?

—Should IRS and Treasury be prohibited from spending the $26 million earmarked for two private debt collection pilot programs until issues jeopardizing their success are resolved?

—What level of funding will IRS need to make its information systems century date compliant?

—Does IRS need all of the fiscal year 1998 funding it is requesting for the Distributed Input System/Remittance Processing System replacement project?

—What level of funding should Congress provide for developing new information systems, given the lack of any justification for the $131 million requested for

fiscal year 1998 and the $1 billion investment account for fiscal years 1998 and 1999?

—What reliable, outcome-oriented performance measures should be put in place to guide IRS and Congress in deciding how many resources should be given to IRS and how best to allocate those resources among IRS' functional activities?

That concludes my statement. We welcome any questions that you may have.

APPENDIX I

COMPARISON OF FISCAL YEAR 1998 BUDGET REQUEST WITH PRIOR YEARS

Tables I.1 and I.2, respectively, show how IRS' fiscal year 1998 budget request compares to (1) its proposed fiscal year 1997 operating level and (2) its appropriations since fiscal year 1991.

TABLE I.1: COMPARISON OF IRS' FISCAL YEAR 1998 BUDGET REQUEST WITH PROPOSED FISCAL YEAR 1997 OPERATING LEVEL

[Dollars in thousands]

Budget activity	Fiscal year 1997		Fiscal year 1998	
	Dollars	FTE's	Dollars	FTE's
Submission processing	$788,138	15,481	$820,325	15,694
Telephone and correspondence	786,616	20,815	815,382	20,815
Document matching	67,298	1,904	69,783	1,904
Inspection	100,581	1,214	103,874	1,214
Management services	534,808	7,275	559,355	7,352
Rent and utilities	604,416	169	574,455	169
Subtotal: Processing, assistance, and management appropriation	2,881,857	46,858	2,943,174	47,148
Criminal investigation	371,780	4,595	385,081	4,595
Examination	1,586,545	25,910	1,641,834	25,916
Collection	715,552	12,387	751,918	12,387
Employee plans and exempt organizations	128,116	2,117	132,696	2,117
Statistics of income	23,756	471	24,781	471
Chief counsel	210,469	2,589	217,412	2,589
Subtotal: Tax law enforcement appropriation	3,036,218	48,069	3,153,722	48,075
Operational information systems	1,156,408	7,708	1,141,596	6,912
Developmental information systems	130,131	291	130,891	250
Subtotal: Information systems appropriation	1,286,539	7,999	1,272,487	7,162
Grand Total	7,204,614	102,926	7,369,383	102,385

Source: IRS' budget estimates for fiscal year 1998.

We did not extend the above comparison to fiscal years before 1997 because IRS restructured its budget for fiscal year 1998 and adjusted only its fiscal year 1997 figures to coincide with that new structure. One major restructuring involved what used to be the "Taxpayer Services" budget activity. That activity, which is part of IRS' Processing, Assistance, and Management appropriation, was renamed "Telephone and Correspondence" and was revised to combine various assistance programs with compliance activities conducted by phone and correspondence. Other restructuring included (1) a consolidation of what were four different resources management budget activities into a single Management Services activity, (2) creation of a separate budget activity for rent and utilities, and (3) the consolidation of what were four information systems budget activities into two—one for operational systems and one for developmental systems.

TABLE I.2: COMPARISON OF IRS' FISCAL YEAR 1998 BUDGET REQUEST WITH IRS APPROPRIATIONS FOR FISCAL YEARS 1991 THROUGH 1997

[Dollars in billions]

Fiscal year	Appropriations in 1997 dollars	Total FTE's
1991	7,088	115,628
1992	7,513	116,673
1993	7,792	113,460
1994	7,710	110,665
1995	7,826	112,069
1996	7,397	106,642
1997	7,205	102,926
1998	[1] 7,182	[2] 102,385

[1] Requested amount.
[2] Estimate based on requested amount.
Source: IRS' budget requests for fiscal years 1993 through 1998. Dollars are presented in 1997 constant dollars on the basis of GAO computations using budget request data and Gross Domestic Product Deflator.

APPENDIX II

TRENDS FOR CERTAIN IRS PERFORMANCE INDICATORS

The following tables show trends for various IRS performance indicators

Table II.1: Number of Individual Income Tax Returns Filed

[In millions]

Fiscal year	*Number of individual income tax returns*
1991	114.1
1992	115.0
1993	114.2
1994	113.4
1995	116.3
1996	118.8

Source: IRS annual reports and data books.

Table II.2 Information Returns Received

[In millions]

Fiscal year	*Number of information returns*
1991	1,042
1992	1,035
1993	1,040
1994	1,052
1995	1,054
1996	1,070

Source: IRS annual reports and data books.

Table II.3 Telephone Accessibility Rates

Filing season	*Percent*
1991	40
1992	33
1993	24
1994	21
1995	8
1996	20
1997	51

Note: Telephone accessibility is computed by dividing the total number of calls answered by the total number of call attempts, which we define as the sum of (1) calls answered, (2) busy signals, and (3) calls abandoned by the caller before an IRS assistor got on the line.
Source: IRS' Management Information System for Top Level Executives and IRS' Telephone Data Reports.

TABLE II.4: AUDIT COVERAGE OF INDIVIDUAL AND CORPORATE INCOME TAX RETURNS

Fiscal year	Individual income tax returns		Corporate income tax returns	
	Number of audits	Percent coverage	Number of audits	Percent coverage
1991	1,313,168	1.17	67,618	2.52
1992	1,206,019	1.06	79,597	3.04
1993	1,058,966	0.92	79,873	3.05
1994	1,225,707	1.08	58,110	2.31
1995	1,919,437	[1] 1.67	51,808	2.05
1996	1,941,546	1.67	59,832	2.34

[1] IRS attributes the increase in 1995 to auditors pursuing nonfiler cases and the increasing number of Earned Income Credit claims reviewed by service center examination staff.

Note: Audit coverage is the number of returns examined divided by the number of returns filed in the previous calendar year.

Source: IRS data books.

TABLE II.5: DELINQUENT TAX COLLECTIONS BY IRS

[Dollars in billions]

Fiscal year	Current dollars	1996 dollars
1991	24.3	27.5
1992	24.2	26.6
1993	22.8	24.4
1994	23.5	24.5
1995	25.1	25.7
1996	29.8	29.8

Source: Current dollars from IRS annual reports and data books. 1996 dollars are GAO computations using IRS data and gross domestic product indexes.

APPENDIX III

TELEPHONE ACCESSIBILITY

During each filing season, millions of taxpayers call IRS with questions about the tax law, their refunds, or their account. According to IRS data, as shown in table III.1, the accessibility of IRS' telephone assistance, as we have defined it in the past, has increased substantially.[11]

Filing season	Number of call attempts (in millions)	Number of calls answered (in millions)	Percent accessibility
1997	62.4	31.8	50.9
1996	114.0	22.9	20.1

[1] These data are for January 1 through April 19, 1997, and January 1 through April 20, 1996.

Source: IRS data.

As table III.1 indicates, the increase in accessibility is due to a combination of more calls being answered and fewer calls coming in. IRS' ability to answer more calls is due, at least in part, to (1) an increase in the number of staff assigned to answer the phone, some of which was achieved by detailing staff from other IRS functions,[12] and (2) revisions to IRS' procedures for handling calls.

[11] Accessibility, as we have traditionally defined it, is the total number of calls answered divided by the number of call attempts, which is the sum of the following: (1) calls answered, (2) busy signals, and (3) calls abandoned by the caller before an IRS assistor got on the line.

[12] In one service center, for example, 26 staff from the Collection area were detailed on an as-needed basis to answer the phones, 45 staff from the center's Adjustment/Correspondence Branch were detailed to answer phone calls during the filing season, and another 24 staff from that Branch were detailed to answer calls for 2 hours each afternoon.

As an example of the latter, this year, unlike past years, callers who indicated, through the choices they selected on the automated telephone menu, that they had a question in a complex tax area (such as "sale of residence") were to be connected to a voice messaging system. Those callers were asked to leave their name, telephone number, and best time for IRS to call back, and they were told that someone would be calling back within 2 working days. Those return calls were to be made by staff detailed from IRS' Examination function. According to IRS, it made this change after a study showed that several areas of complicated tax law involved 20 to 30 minute telephone conversations and that an assistor could answer about 5 simpler calls within the same amount of time.

The decline in the number of calls coming in can be attributed, in no small part, to IRS' ability to answer more calls. The more successful IRS is in answering the phone, the fewer times taxpayers should have to call in an attempt to get through. Another factor cited by IRS as a contributor to the number of call attempts was the elimination of certain notices that it deemed to be unnecessary, which, in turn, reduced the need for persons to call IRS with questions about those notices.

DEPARTMENT OF THE TREASURY

INTERNAL REVENUE SERVICE

STATEMENT OF LAWRENCE H. SUMMERS, DEPUTY SECRETARY

ACCOMPANIED BY:

MICHAEL P. DOLAN, ACTING COMMISSIONER
DAVID A. MADER, CHIEF, MANAGEMENT AND ADMINISTRATION
ARTHUR A. GROSS, CHIEF INFORMATION OFFICER
JAMES E. DONELSON, CHIEF, TAXPAYER SERVICE

INTRODUCTION OF WITNESSES

Senator CAMPBELL. We will go to our last panel, which will be the Honorable Lawrence Summers, Mr. Michael Dolan, Mr. David Mader, Mr. Arthur Gross, and Mr. James Donelson. And as I mentioned before, we will probably be submitting some written questions to this panel. Deputy Secretary Summers and then we will just proceed down the line as they are listed on the witness list.

STATEMENT OF LAWRENCE H. SUMMERS

Mr. SUMMERS. Thank you very much, Senator. I will be very brief in my opening statement. I want to make two primary points. First, I believe we are well on the way to getting the IRS information technology program back on track. We testified before this committee a year ago. We said that it was quite far off track.

By bringing in a new Chief Information Officer, Art Gross, who is with us here today, by canceling or consolidating some 26 projects that would have, over the coming year, spent more than $1 billion, by moving to a new approach based on private sector involvement and preparing a detailed architecture which is now receiving comment from potential prime contractors, by focusing our information technology investments on the highest priority items for which there is a strong business case, and by very substantially strengthening Treasury oversight of the IRS, I believe we have taken significant steps and that we are making significant progress toward the restoration of this information technology program to being what it should be.

TREASURY FIVE POINT PLAN FOR IRS

Those efforts come as part of a broader effort that the Department is engaged in to work to improve performance at the Internal Revenue Service to give the Internal Revenue Service the tools that it needs. One important component of that program is new leadership. As you may have read, a potential IRS Commissioner is going through the vetting process right now.

He has a very different background than traditional IRS Commissioners, one that is grounded in management information technology and customer service in order to provide for continuity,

which we see as central. Secretary Rubin has recommended, and this is a point on which the IRS Commission agrees, that the IRS Commissioner be given a 5-year term so that the job will be more removed from politics, so that there will be a longer term of service for the IRS Commissioner.

Second, we are working to strengthen oversight of the IRS. We believe that it is essential that the IRS management have continuity, that it have accountability, and that it have substantial outside input. Our proposals do just that, the 5-year term and an advisory board that would have continuity across administrations.

It would make an annual report to the taxpayers on IRS performance and on our performance in IRS oversight as well as continuation of an internal Government board for the IRS that we believe has been quite effective over the last year to provide for accountability, a reporting requirement on the Secretary and the Deputy Secretary of the Treasury to report personally to Congress every 6 months on the performance of the IRS so that their accountability and through them the President's accountability is firmly established.

We believe that this is the best way to safeguard the 95 percent of the Government's revenue that is collected through the IRS. We believe this is the best way to protect what is a central law enforcement function in our country, the collection of taxes.

We have very grave concerns about the proposals of some to turn the IRS over to a board of outside corporate-type directors whose primary loyalty would be to their own institutions on which they were employed full-time and who would only be involved on a part-time basis with the IRS, therefore, it seems to us, be in an appropriate position to oversee a critical law enforcement function or to take an active part in tax policy deliberations.

The third part of our approach is an emphasis on sound budgeting practices. As we restore trust, as I believe we will by showing results, we think it is important that budgeting procedures for the IRS recognize the need for some stability in treating capital outlays and recognize that given that the IRS is the principal revenue generator for the Federal Government, cuts in the budget actually have the perverse consequence of substantially increasing the budget deficit.

Fourth, we believe that it will be necessary, in part through legislation and in part through administrative action, to substantially increase the flexibility of top IRS management, to bring in new people from the outside as we were able to bring in Mr. Gross, to reassign people when that is warranted by their performance, to replace people when that is necessary given their performance.

If we want the kind of service that people have come to expect from the private sector, we have to give top management the tools to operate in the way that a business does.

And finally fifth, and really separate from our concerns today, but which I think are of the utmost importance if we are going to address these problems, we are working to simplify the Tax Code. The administration submitted a package of some 60 simplification programs on April 15 that will do things like remove the need for paper boys with bank accounts to file taxes—with $100 savings accounts—to file tax returns.

I am pleased that many of those suggestions have been reflected in the bills that are coming out and going through the markup process right now in both the House and the Senate.

YEAR 2000 DATE CONVERSION

Finally, Mr. Chairman, I would just say that the next 2 years are not going to be easy. On top of all of the other problems, we face the Y2K year 2000 problem. The IRS is probably as large a collection of computers dating from the 1960's as exists anywhere. It is an absolute, stay-in-business issue for the IRS. Therefore, we are going to meet that challenge.

It is going to be expensive. It is going to be very expensive. The size of the need as we have scoped this has become larger and larger and I cannot tell the committee that we have fully identified all of the costs even at this point. But we are working to identify them, and more importantly, to solve the problems as rapidly as we possibly can. Thank you very much.

PREPARED STATEMENTS

Senator CAMPBELL. Thank you, Mr. Summers. We have your complete statement, and it will be made part of the record. We also have a prepared statement from Mr. Dolan which will be inserted in the record.

[The statements follow:]

PREPARED STATEMENT OF LAWRENCE H. SUMMERS

I am pleased to be here today to talk with you about Treasury's plan to implement lasting solutions to the difficulties the IRS faces. Before I begin, I would like to thank the Chairman, the Ranking Minority Member and the other members of this Committee for their leadership on the matter of IRS reform. With me today are Acting Commissioner of the IRS, Michael Dolan, Chief of Management and Administration, David Mader and Chief Information Officer, Arthur Gross. In addition, I hope you will join me in recognizing and thanking the more than 100,000 loyal and dedicated IRS employees who carry on the unpopular but vitally important task of collecting 95 percent of our government's revenue.

MANAGEMENT REFORM

Mr. Chairman, recent announcements of problems in modernizing the computer systems of the IRS have focused attention on the shortfalls of the information technology of the Service. At the same time, improvements in customer service in the private sector have led the American people to expect interactions with the IRS to be as efficient and straightforward as interactions with credit card companies and other private-sector financial institutions. This has occurred at a time when the IRS is also coping with an increased workload. This year, the IRS processed over 2 billion pieces of paper which, if placed side by side, would stretch over 200 miles. These developments have provoked an important debate about how best to improve the Internal Revenue Service.

Over the last few years, the Treasury Department has focused intense efforts on improving the IRS. This Committee and others within the Congress have held extensive hearings on the matter. A consensus has emerged among a wide group of stakeholders, from business executives to Members of Congress to leaders of the IRS and National Treasury Employees Union on the need for change.

I believe that, in the next year or so, we have the opportunity and the obligation to bring about the most far-reaching changes in decades in how the IRS is managed and how it does business. It will be the task of management at the IRS to manage information technology better and to harness it toward the goal of better customer service.

Mr. Chairman, I know you and the Committee face many difficult choices as you work to balance priorities and funding for the coming fiscal year. We recognize that this Committee has provided critical support for making the necessary changes. But

we also recognize the constraints imposed by the effort to balance the Federal budget by 2002. Our budget request for the IRS therefore maintains operations essentially at the fiscal year 1997 level, providing the resources to support current staffing levels—which are over 12 percent below fiscal year 1993 levels. Our proposal will include funding to address the Century Date change—an issue not unique to the IRS, but one that could be disastrous for our tax system if not addressed effectively and quickly.

INDICATORS OF PROGRESS

Secretary Rubin and I recognized last year in testimony before the Appropriations Committees that the IRS's modernization program was, as we put it at the time, off track. We called for a "sharp turn" and made clear our determination to bring about change in the way the IRS uses information technology and provides customer service. And there has been change. The results, while still in their early stages, give the IRS a solid foundation on which to build, and are already producing benefits. Some examples of the steps we have taken include the following:

—We have appointed a new Chief Information Officer at the IRS, Art Gross. Mr. Gross brings to the IRS considerable systems integration and tax systems modernization experience from his years with the State of New York.

—In May 1997, after many months of intense preparation, Mr. Gross released the IRS's *Blueprint for Technology Modernization*, which was well-received in the professional information technology (IT) communities both inside and outside the government. This Blueprint is a significant and critical first step in getting IRS on the right track for IT management, and represents the first comprehensive attempt to form a strategic partnership on IT with the private sector.

—Following up on the *Modernization Blueprint*, we submitted a Request for Comment for a Tax Systems Modernization prime contractor to Congress and to industry on May 15.

—Based on the reviews performed by Mr. Gross and senior IRS leaders of the technology efforts underway at the IRS, we cut and collapsed the number of projects by nearly two-thirds—from 26 to nine.

—The IRS has increased outsourcing. The percentage of work on tax systems modernization performed by contractors has increased from 40 to 64 percent over the past two years. The number of IRS staff working on tax systems modernization has decreased from 524 to 156. We are also developing an outsourcing strategy for submissions processing.

Some other activities currently underway include the following:

—The IRS is now working with a top marketing firm on an electronic filing marketing strategy to bolster taxpayer participation in the entire line of IRS electronic filing products, including Telefile, On-line filing, 1040-PC filing, and traditional electronic filing. The bureau is also putting forth a Request for Information (RFI) that will produce opportunities for partnering with the private sector to increase electronic filing.

—A joint Treasury, IRS, and National Performance Review (NPR) task force is conducting a 90-day study of customer service. The study will draw on the experience of front-line employees and will focus on the issues that touch customers most deeply. Among other tasks it will attempt to identify ways to improve notices, the quality of walk-in center assistance, and training.

I understand that the IRS is providing separate testimony describing in further detail the progress that is occurring at the IRS in customer service, electronic filing and other performance measures. The steps we have taken so far are obviously only the beginning. Everyone involved in this process at Treasury, the IRS, Congress, and the Union has recognized that the problems at the IRS have developed over decades and will not be solved overnight or even over a couple of filing seasons. But I believe that we have set up an effective structure for reforming the IRS, and that we are making progress towards our vision of a tax system that serves taxpayers better, collects more unpaid taxes, and is more efficient.

THE TREASURY DEPARTMENT'S FIVE-POINT PLAN FOR THE IRS

Let me now present our broad approach to IRS reform. We are determined to bring about changes in the way the IRS uses information technology, provides customer service, monitors tax compliance, and manages its own resources. As with any institution, however, there is a right way and a wrong way to make change. We believe that the approach described below is the right way: it charts a new course for the IRS, but does so without jeopardizing the institution and our nation's revenue stream. Our approach has identified five critical areas to effect this "right" kind of

change: (1) oversight; (2) leadership; (3) flexibility; (4) budgeting; and (5) tax simplification. I will address each of these in turn.

1. Strengthening Oversight

First, Treasury has strengthened its oversight of the IRS and is committed to institutionalizing this oversight function. Oversight of the IRS by the Treasury Department is essential to ensuring accountability for the American people and to coordinating tax administration with tax policy.

Last March, I announced the formation of the Modernization Management Board (MMB) comprised of senior officials from Treasury, the IRS, and other parts of the Administration. Initially, the MMB evaluated only information technology issues. Now, however, it is beginning to oversee the entire range of IRS activities. We are asking that the President sign an Executive Order that expands the powers of the MMB by making it permanent and clarifying that its responsibilities cover the broad range of strategic issues facing the IRS. This new Internal Revenue Service Management Board will meet at least monthly and will prepare semi-annual reports to the President and the Congress, which will be transmitted by the Treasury Secretary.

The Executive Order will also contain the requirement that the Secretary and Deputy Secretary make themselves available twice yearly to Congress to report on the IRS.

We will also establish the IRS Advisory Board, to report directly to the Secretary of the Treasury. This board will be comprised of senior business executives, experts in information technology, small business advocates, tax professionals, and others. It will meet regularly to make recommendations on major strategic decisions facing the IRS, and will issue an annual report to the American people and the Congress. This new Board will provide an additional vehicle for the private sector input from which the IRS can so clearly benefit, without compromising the bureau's government responsibilities, such as enforcing federal tax laws and ensuring the equitable administration of the tax system.

These three steps, creating a permanent management board, requiring the Secretary and Deputy Secretary to report to Congress semi-annually and creating an advisory board comprised of outside experts will institutionalize the oversight function.

In recent weeks, however, there has been considerable interest in a more radical model of oversight. As you know, two weeks ago, the National Commission on Restructuring the IRS proposed that the IRS be governed by an outside board of private citizens who serve on a part-time basis. We believe that a private-sector board would not meet frequently enough to address the critical and complicated decisions facing the bureau over the next decade. The challenges the IRS faces and the size and complexity of the institution demand more than the part-time and sporadic attention that the Commission's proposed board would provide.

In contrast, Secretary Rubin and I, as well as other Treasury officials, are available every day to discuss pressing issues with the IRS. Treasury oversight is also critical because tax policy and tax administration are inexorably linked. The IRS's relationship with Treasury provides an effective mechanism for presenting to senior Administration officials the IRS' analysis of the impact of proposed tax changes on tax administration. I raise such concerns frequently in tax policy discussions in the White House and elsewhere throughout the Administration. Furthermore, Treasury oversight allows the IRS to draw upon Treasury resources for critical projects, as demonstrated by our current cooperation on the Year 2000 conversion.

2. Recognizing the importance of leadership

The second element of our approach to the IRS is recognizing that leadership is crucial to performance. As we move forward, we are excited by the prospect of appointing a new Commissioner with experience in managing organizational change, customer service improvement, and information technology challenges. We also will be proposing legislation to create a five-year fixed term for the Commissioner, to provide the continuity and leadership necessary for guiding the bureau into the next century.

Taken together, the first two elements of our plan, strengthened oversight and renewed leadership can achieve the critical goals of ensuring continuity, outside input and accountability without putting at risk the progress underway at the IRS or the vital functions of government.

3. Enhancing IRS management flexibility

The third component of our five-point IRS strategy is to enhance and strengthen the IRS's ability to manage its operations, working with Congress and the union to improve management flexibility in personnel and procurement. In return, employees

of the IRS, as in any well-managed business, will be held accountable for results. In addition, we will enhance and strengthen the IRS's ability to manage its operations. For example:

—The IRS should be able to attract and retain the highest quality information technology specialists and other professionals.

—The IRS should not face rules that make restructuring the work force needlessly difficult for employees and the employer.

To strengthen the Commissioner's ability to effect change, we at Treasury will work with Congress, the Commission, and the union to improve flexibility: to bring on people with specific skills more quickly... to pay them more competitively... and to give them the training they need. This might include providing recruitment, retention and relocation incentives and using commercial recruiting firms to identify and screen employment candidates. Thus, the IRS faces a multitude of restrictions—restrictions that would be unacceptable in the private sector—that hamper its ability to provide efficient service. Some changes may require legislation, and we expect to propose this legislation to Congress later this year.

Let me add that in taking these steps, we are committed to maintaining the independence and freedom of the IRS from political influence.

4. Obtaining stable funding

The fourth component of our strategy is to work with Congress to obtain stable and predictable funding for the IRS. Today, the IRS operates in a low-trust, short-tether budgeting environment. This unduly complicates rational planning for capital projects in areas such as information technology. As we demonstrate that the IRS is investing its resources more prudently, Congress should consider longer-term approaches to budgeting. To this end, the fiscal year 1998 budget proposes multi-year investments for technology. This multi-year proposal would provide funding stability as the IRS modernizes its information technology operations.

Over time, the Administration and Congress will have to give careful consideration to the appropriate size of the IRS budget. The IRS budget has declined by more than nine percent in real terms over the last two years. Reducing expenditures on compliance run counter to the goal of reducing the federal deficit. Over the long term, the IRS estimates that every dollar invested in IRS enforcement returns at least $4 in actual collections. For example, in 1995, we undertook to invest $2 billion over five years to increase compliance. In the first year of that program, we more than exceeded the targets established for revenue gains.

Looking forward, there are conflicting pressures on the IRS budget. Efficiency improvements are surely possible through information technology, which should enable us to reduce the budget in the long term. But we must also strive to meet expanding customer service expectations, which could increase our budget requirements. And to promote fairness and integrity in implementing tax laws while keeping pace with increasingly complex business transactions, we should also invest additional resources in compliance.

5. Simplifying the tax code

The fifth component of our strategy is to simplify, wherever possible, a tax code that currently covers 9,451 pages. In April of this year, the Administration offered a series of simplification proposals as part of our overall plan to improve IRS operations. The proposed package, which could save taxpayers millions of tax preparation hours, contains more than 60 legislative proposals to reduce the complexities and paperwork burdens of the existing Internal Revenue Code and provide substantial new tax rights to the American taxpayer. It is important to stress that these proposals would simplify the tax code without the severely adverse distributional consequences that detract from most other simplification proposals.

We are pleased that Chairman Archer included most of our proposals in the recent Ways and Means Committee tax bill. Of the total of about 80 simplification proposals in his bill, we count 69 that are substantially derived from the Administration package. These measures, if enacted, will improve the functioning and administration of the tax law for many taxpayers and the IRS.

However, we note that the pending bill also includes many new provisions that are complex, and some that are far too complex. In crafting legislation, simplification must always be weighed with other important tax policy goals, including fairness, equity, economic efficiency, progressivity and revenue impact.

SUMMARY

These five steps—institutionalizing oversight, introducing new leadership, increasing flexibility, obtaining predictable funding, and simplifying taxes—provide a framework for improving our tax administration system. Of course, there are other

critical issues that we must address. But I believe that progress on these five fronts is essential to addressing the IRS' problems.

CONCLUSION

This morning I have discussed some of the specific steps we are taking to modernize the IRS. In turn, I have discussed the broad five-point plan that we believe represents the best way to reform the management of the IRS.

The Treasury Department is committed to working with the IRS as it moves forward with its change effort. I look forward to working with members of this Committee and other interested parties in the coming months and years to meet the challenges faced by the IRS. I would welcome your questions.

PREPARED STATEMENT OF MICHAEL P. DOLAN

Mr. Chairman and Distinguished Members of the Subcommittee:

With me this morning are Arthur Gross, Associate Commissioner for Modernization and Chief Information Officer; Jim Donelson, Chief Taxpayer Service and Acting Chief Compliance Officer; Tony Musick, Chief Financial Officer; and Dave Mader, Chief Management and Administration. We are pleased to be here this morning to discuss the Internal Revenue Service (IRS) 1997 filing season as well as the Service's fiscal year 1998 budget request and its effect on taxpayer services, the IRS compliance efforts, the IRS reorganization, and our continuing efforts to modernize.

I. INTRODUCTION

In today's testimony, I would like to account for the IRS use of its recent appropriation. I believe the Service has made a series of improvements consistent with the direction provided by this Subcommittee. I also will outline what we expect to accomplish with our fiscal year 1998 appropriation. While many of the programs that IRS has initiated or improved take time before their results are fully reflected in performance indicators, the evidence is already clear that the IRS has made progress in making it easier for taxpayers to get information about their tax obligations, pay their taxes, file their returns, and obtain their refunds where appropriate.

A critical responsibility for the IRS is to plan and manage a successful filing season. We collect more than one trillion dollars annually (see Chart 1), process more than 200 million returns and 88 million refunds, and assist millions of taxpayers in complying with their obligations. Over the past few years, we have been trying to shift taxpayers, and the IRS, from some paper transactions. We have made more and more information available via the telephone, computer, fax services, and CD-ROM. We have published telephone numbers which are dedicated to refund information and we have established what amounts to an IRS answering machine so that taxpayers can call in and leave a brief description of their issue. We also have encouraged taxpayers to use alternatives to filing by paper.

The Service recognizes that it must continue to improve services, reduce costs, and provide an effective balance between assisting taxpayers, processing returns, issuing refunds and ensuring that all segments of the taxpaying public—wage earners, self-employed, and businesses—pay their proper amount of tax, at the least cost to the government and to them. Balancing these seemingly competing interests so that the IRS can provide the quality of tax administration our citizens deserve is not a simple task.

The fiscal year 1998 budget request is structured in a way that we believe strikes a balance that will see customer service improve further; key compliance and fairness issues effectively addressed; and critical systems improvement achieved.

II. OPERATIONS

Background. The IRS, like many large businesses, has many functions which contribute to the achievement of its mission. The Service collects money, processes information, maintains customer accounts, and responds to taxpayers' questions. Customers expect the Service to do these functions accurately and efficiently while maintaining a high level of integrity and safeguarding their privacy. The Service is in the midst of a major transition that began several years ago and that will continue for several more.

SERVING TAXPAYERS BETTER

Making It Easier For Taxpayers to Get Information. We understand that taxpayers get frustrated when they call the IRS and repeatedly get a busy signal. In

the past four years, the IRS has answered more calls than ever before, but there are still taxpayers whose calls are not answered. There are also a growing number of taxpayers who visit or write. In 1993, the IRS heard from taxpayers by phone, visit, or letter 73 million times; in fiscal year 1996, that number had increased to nearly 106 million taxpayers (see Chart 2). To deal with one kind of demand, access to the TeleTax recorded information line, which offers taped information on 148 topics all day, every day, and refund information 16 hours a day, Monday through Friday, has been expanded. In 1996, over 45 million TeleTax calls were answered. Assistors answered another 45 million toll-free calls. The overall level of taxpayer access to telephone assistance increased from 39 percent to 46 percent in fiscal year 1996. More taxpayers were served by increasing productivity, expanding hours of service, and installing call routing equipment that allows the ever growing telephone workload to be better managed. This technology allows the Service, among other things, to route calls to available assistors, who may be in the next county, next state, or across the country. One result of these improvements is that in over 80 percent of the instances an account issue could be resolved with a single call.

In fiscal year 1997, assistors will answer 60 million toll-free calls—an increase of 15 million over last year. In addition, the TeleTax system should provide service to over 47 million taxpayers. Realizing the criticality of answering a greater percentage of our customers' calls, the Service used its resources differently during the 1997 filing season to ensure more taxpayers were served. So that assistors could answer more tax law and account questions, the IRS added a new, toll-free number that enabled taxpayers to quickly determine the status of their refunds without having to speak to an assistor. Taxpayers who wished to call after hours or who did not want to be put on hold left their questions on recorded messages, and they were contacted within two business days with an answer. In an effort to improve telephone service this year, the IRS also temporarily used some of its examination personnel to answer the telephones. In other words, compliance personnel were used to perform traditional taxpayer service functions. Because of these efforts, the IRS significantly improved the toll-free telephone system, answering approximately 70 percent of callers [1] in 1997. In 1998, we want to institutionalize and improve these gains. As of May 31, 1997, this fiscal year we have answered over 46 million toll-free calls. Also, our TeleTax System has provided service to 41 million taxpayers.

Despite these improvements, not every taxpayer call was answered and not all taxpayers who wanted to be served were served. Resource constraints ultimately limit the number of calls that can be answered. Furthermore, it makes good business sense to find ways that might proactively reduce the number of calls which taxpayers are required to make. One sure way of affecting that equation is to make the information initially provided clear enough that taxpayers will not need to contact the Service.

We already have made some progress with a notice reengineering effort. Through this effort, we eliminated 12 different notices in fiscal year 1996; this resulted in 18 million fewer notices being issued and mailed to taxpayers—avoiding millions of telephone calls or letters from taxpayers. We have eliminated another 20 notices and letters for fiscal year 1997. This is good for taxpayers, who not only are relieved of the stress when an official looking letter from the IRS arrives in the mail, but who may not need to follow up with the Service. It also is good for the IRS; money is saved on printing and postage and subsequent questions are eliminated. The notices that will continue are being rewritten in clearer language so that fewer recipients will need to have any additional explanation.

Technology has enabled entirely new ways for taxpayers to get forms and information from the Service while reducing IRS' postage and printing costs. Three years ago, taxpayers requesting a publication or form either had to call to have the material mailed or they had to drop by an IRS office, their local post office, or library. Not today—at least for many taxpayers. Tax forms and publications now are available on CD-ROM, and, last year, the IRS instituted an innovative FAX-Forms service that processed over 79,000 requests for tax forms and instructions by fax during the filing season; as of June 1, 1997, over 600,000 requests had been processed for tax forms, instructions, tax topics and newsletters. This service has been expanded this year by doubling the number of forms and instructions available and advertising the FAX phone number in all 1040 series tax packages.

For the 1996 filing season, the Service also developed a world-class Web site that provides access to over 700 current and over 3000 prior year tax forms and instruc-

[1] IRS defines level of access as the percentage of callers who are able to get through to IRS. GAO defines level of access as the total number of calls answered divided by the total number of calls received. The total number of calls received is the sum of the following: (1) calls answered, (2) busy signals, and (3) calls abandoned by the caller before an assistor got on the line.

tions, tax publications, regulations with plain English summaries, frequently asked questions, disaster relief assistance, newsletters, press releases, information on 148 tax topics, interactive applications that answer tax questions, and other information. This service is available world-wide, 24 hours a day, to anyone with access to a personal computer and the Internet. During the 1996 filing season, over 100 million "hits" were logged and over three million files were downloaded. Through June 1, 1997, of the 1997 filing season, the site had logged over 137 million hits and over 6.1 million files (usually a form or information publication) have been downloaded. This Web Site has received outstanding customer, media, and industry feedback and has been honored with over 40 awards for its design and ease of use from such sources as Netscape, PBS, Wired magazine, USA Today, Tax World, Money magazine, Microsoft, Harcourt Brace, PC Computing Magazine, and Government Executive magazine.

As a way of expanding the help available to taxpayers, the IRS also sponsors VITA, the Volunteer Income Tax Assistance program, and TCE, Tax Counseling for the Elderly. With these two programs, the IRS increased taxpayer assistance by giving taxpayers the opportunity to have direct contact at almost 20,000 sites with volunteers trained by IRS personnel. Last year, over 80,000 volunteers served almost 3.5 million taxpayers through both of these programs.

Easier Filing Methods. Another of the Service's goals has been to make it easier for taxpayers to file their tax returns. Current data suggests progress is being made on this front. Almost 50 percent of individual filers now use the easiest tax forms and almost 75 percent take the standard deduction. The number of returns filed electronically by paid preparers and by telephone has increased from 14.9 million in 1996 to 19.1 million in 1997. This year, through June 13, 1997, we have received approximately 14.4 million electronically filed returns through paid preparers; this is a 19 percent increase over the previous year.

During the 1997 filing season, almost 26 million taxpayers were eligible to file their tax returns with a phone call that takes less than ten minutes. By making TeleFile available to married taxpayers and taxpayers wanting direct deposit of their refunds, three million more taxpayers could use TeleFile this year. During the 1996 filing season—which was the first year of TeleFile's nationwide availability—the Service received 2.8 million TeleFile returns. As of June 13, 1997, almost 4.7 million have been received for this year. Starting in fiscal year 1994, taxpayers could file from their home computer through a third-party transmitter. In 1996, the IRS received over 158,000 returns that way, and as of June 13, 1997, 366,000 returns had been received. Also, last year, the IRS forwarded to these 31 states 3.2 million returns filed through its joint Fed/State electronic filing program. As of June 13, 1997, the IRS has forwarded 4.3 million returns to these 31 states and to the District of Columbia. This represents a significant savings to taxpayers and to the states in this program.

Electronic filing is not just limited to individuals. It is also available to businesses. Employers nationwide can now file their "Employer's Quarterly Tax Return" (Form 941) electronically. Almost 363,000 of these returns were filed in this manner for 1996. A TeleFile option for the simpler Form 941 returns began testing on April 1, 1997, with nearly 900,000 eligible businesses in 14 states and the District of Columbia. As of May 12, 1997, almost 49,000 returns have been filed through this test program. Electronic filing offers advantages for taxpayers and for the IRS. One advantage is that taxpayer refunds are received sooner—an average of 21 days as opposed to 40 days for paper returns. The advantage for the IRS is the receipt of more accurate information more quickly.

Electronic tax administration means more than just receiving returns electronically; it includes electronic payments as well. Most of the over 88 million taxpayers who will be entitled to refunds this year can have them directly deposited into their bank accounts. Taxpayers enjoy the safety and ease of direct deposit and the government saves the expense of printing and mailing checks. A change to the Form 1040 has made it even easier for taxpayers to request direct deposit this year. Last year, if a taxpayer wanted a refund deposited directly into a bank account, he or she had to submit a separate schedule. This year, a few extra lines on the Form 1040 will do it. As of June 6, 1997, in this filing season, we have had an increase of approximately 57 percent in the number of filers requesting direct deposit of their refunds.

The TaxLink/Electronic Federal Tax Payment System (EFTPS), used by employers to pay employment and other depository taxes electronically, is faster, easier, and more accurate for tax collectors and taxpayers alike. In fiscal year 1996, more than $380 billion were deposited electronically through TaxLink, an increase over the $232 billion deposited in fiscal year 1995. Approximately 1.2 million businesses will be required to begin making deposits through EFTPS on July 1, 1997. As of June 14, 1997, we have more than 1.1 million of the required taxpayers enrolled

and almost 500,000 voluntary enrollments, and over $124 billion had been collected through the new EFTPS. The IRS has communicated extensively with banks, payroll companies, and practitioner groups—as well as with the taxpayers themselves—to enable a smooth July 1 implementation. We recently announced that the IRS will not impose penalties through December 31, 1997, on businesses that make timely deposits using paper federal tax deposit coupons while converting to the new electronic payment system. Under current law, taxpayers with more than $50,000 of federal employment tax deposits in 1995 are required to enroll in the EFTPS and to deposit electronically by July 1, 1997. The additional 10 percent penalty for not depositing electronically will be waived through December 31, 1997. However, deposits must still be made on time even when paper coupons are used, in order to avoid a late deposit penalty. The IRS encourages businesses to use this additional time to get acquainted with EFTPS. Making EFTPS payments successfully will show businesses that they are correctly enrolled and that their payments can be processed without error.

The IRS currently is working through the Treasury Modernization Management Board on ways to further expand electronic tax administration. That strategy anticipates that we will—

—fully explore ways to make electronic filing more attractive to taxpayers;

—leverage existing private and public sector infrastructure; and

—aggressively partner with the private sector.

In July we will submit, through a Request for Information (RFI) all interested parties' views and recommendations on the issues most crucial to develop a dynamic electronic tax administration program. Despite new electronic options, the number of paper tax returns remains large: the IRS processes over 190 million paper returns and documents each year. To address the continuing volume of paper returns, the IRS is pursuing the potential for outsourcing the processing of paper returns as was outlined in our January report. Based upon this input, and assuming that there is commercial interest, a Request for Proposal would be issued to obtain contractor bids. Risks are inherent in turning such a critical system over to an outside processor. Thus, the IRS has already begun the ongoing process of identifying specific risks and potential mitigation strategies as well as identifying "inherently governmental" functions in that process. Based upon the experience of other agencies in large scale outsourcing initiatives, the IRS estimates that it could be as many as four years before it could be ready for a pilot project on outsourcing paper returns processing. As this process proceeds, IRS will carefully review all steps forward to address concerns about privacy and scarcity of taxpayer information.

FAIRNESS: ENSURING ALL TAXPAYERS PAY THE PROPER AMOUNT

In addition to improving services to taxpayers, the Service has continued to improve its compliance operations. Taxpayers have an expectation that the system will treat them fairly. To most taxpayers that means they expect others to pay their correct amount of tax, and they expect the IRS to identify and deal with noncompliance.

The fiscal year 1998 budget requests approximately the same number of employees in compliance as in the fiscal year 1997 budget. For the past four years, the IRS has improved the compliance program through earlier identification of noncompliance patterns, innovative uses of compliance tools, and improved procedures—such as the Market Segment Specialization Program, offers in compromise, and installment agreements. We expect to continue the emphasis on these up-front approaches.

Collection. For the past three years, the collection yield has steadily increased. In fiscal year 1994, collection yield increased three percent; in fiscal year 1995, it increased more than seven percent; and in fiscal year 1996, it increased 19 percent. While some part of collection results will always be a reflection of the underlying economy, the 1995 and 1996 increases also reflect the additional collection personnel hired as part of the 1995 Compliance Initiative. The results also reflect the continued emphasis on early involvement with delinquent taxpayers. As a result of improvements in the Compliance Program and the Compliance Initiative, the revenue collected from compliance increased from $31.4 billion in 1995 to $38 billion in 1996 (see Chart 4). We have consciously prioritized "up front" collection operations—notice and telephone calls—to deal more quickly and effectively with the tax debt. We also have made significant improvements in the rate at which examination personnel secure collection of agreed tax assessments. In 1996, 70 percent of agreed tax assessments were collected at the earliest possible time—the close of the examination.

The Service has also expanded the use of an important tool—the installment agreement—to keep taxpayers in the system who cannot immediately pay all they owe. By increasing the authority we give to our front line personnel to accept installment agreements, installment collections have increased from $2.28 billion in fiscal year 1992 to $6 billion in fiscal year 1996.

The improvements made in the collection process not only helped increase the collection yield over the last several years, but they are also helping the IRS manage the accounts receivable inventory. In fiscal year 1995, the Integrated Collection System (ICS), which provides on-line access to current account information to revenue officers, was installed in two districts. In these two districts, productivity increased more than 30 percent, translating directly to additional tax collections "in the bank." By February 18, 1997, ICS was operational in nine districts.

Examination. In 1996, the Service closed over 2.1 million examinations and audit coverage was 1.63 percent—maintaining the accomplishments achieved in fiscal year 1995. Over 184,000 determination letters were issued for exempt organizations and employee plans.

The compliance program, however, is more than just delinquent accounts and traditional audits. The Service has continued to develop new compliance approaches. Through programs like Accelerated Issue Resolution (AIR) and Advance Pricing Agreements (APA's), the IRS is stressing early resolution of issues—a practice that can save all of the parties time and money. With AIR, the IRS can accelerate the collection of the largest corporate assessments by resolving recurring issues and simply carrying the resolution forward to future years—reducing the number of issues under examination. Under this procedure, taxpayers have agreed to pay about $1.1 billion between fiscal year 1993 and fiscal year 1996.

The APA program was developed as a new way to resolve intercompany pricing issues. As a cooperative process, both taxpayers and the government derive significant benefits. Taxpayers welcome certainty in a complex area and avoid a lengthy debate with the IRS. By the end of fiscal year 1996, the Service had entered into 79 APA's. Currently, 146 APA's are in process.

To address the noncompliance with underreporting of tip income, the IRS, working with industry representatives, developed the Tip Rate Determination Agreement (TRDA) and the Tip Reporting Alternative Commitment (TRAC). These two initiatives benefit both employers and employees. Employers benefit from not having significant unplanned tax liabilities assessed against them. Employees benefit from increased social security benefits, unemployment benefits, retirement plan contributions, and worker's compensation benefits. As of December 31, 1996, the IRS had received over 3,100 TRAC agreements representing more than 21,000 establishments and more than 800 TRDA agreements with nearly 1,200 establishments. From tax year 1994 to 1995, tips reported have increased over $2 billion.

Working with private industry, the Service is responding to the increased sophistication of transactions in the financial world and specialization in the business community. The IRS has cooperatively developed Market Segment Specialization Program guidelines, focusing on the practical problems of examining a market segment and identifying particular issues of interest to the IRS. (A market segment may be an industry such as construction or entertainment, a profession like attorneys or real estate agents, or an issue like passive activity losses.) In turn, taxpayers are better informed about the noncompliance in that market and about the IRS' position. Through May 1997, the Service issued 34 Market Segment guidelines. These guides are available to the public through the Government Printing Office and also on the IRS Home Page on the Internet.

Last year, the IRS continued its efforts to address the problem of erroneous refund claims, one element of the filing fraud issue identified by GAO as an area of high risk for the IRS. The Service has contracted with the Los Alamos Labs for an anomaly detection program to help spot erroneous refund claims. The IRS also has continued and increased verifications, including increased checks of social security numbers. On the Electronic Return Filing System, there was a 25 percent reduction from fiscal year 1995 to fiscal year 1996 in the number of returns rejected because of missing, invalid, or duplicate uses of social security numbers. Similar validations were conducted on paper returns. In fiscal year 1996, these efforts prevented over $900 million in erroneous or fraudulent refunds from being issued.

This past filing season, the IRS continued to refine the efforts to address refund fraud based on what was done last year. The Service is continuing to look carefully for suspicious returns and, under legislation enacted last year, can use a quicker, more efficient method to verify social security numbers as returns are processed.

In addition to compliance activities in examination and collection, the IRS' Criminal Investigation (CI) Division investigates complex financial transactions of taxpayers, looking for criminal tax violations and money laundering. CI remains a

major contributor to the Federal war on drugs by identifying, investigating, and assisting in prosecuting members of high-level drug trafficking and related enterprises and in dismantling their operations. CI is also actively identifying and investigating new and emerging areas of tax fraud that affect the economy and prey on honest citizens. These areas include bankruptcy, health care, insurance, motor fuels excise taxes, non-traditional organized crime, and telemarketing. Last year, CI increased the number of investigations started in traditional criminal tax violations by 14 percent; money laundering investigations increased by eight percent; and bankruptcy investigations increased 58 percent.

III. INFORMATION SYSTEMS

Over the past several years, this Subcommittee, as well as other Congressional committees, have focused on IRS' efforts to develop, implement, and manage its technology modernization projects—collectively referred to as Tax Systems Modernization.

Because technology modernization is so important to the business of tax administration now and in the future, the Service has been working closely with Congress for the past year on this issue. The IRS has made progress in addressing the concerns and criticisms of the technology modernization efforts. However, the Service recognizes that there is more work to be done to meet the challenges of updating technology to better serve the American taxpayers.

Efforts to improve the management of IRS' technology investments have benefited from this oversight, and Tax Systems Modernization remains a high priority for the IRS. The Service has made progress in the past year within Information Systems on modernization efforts in developing an architecture for modernization and in establishing a process for making intelligent investment choices. The fiscal year 1998 budget proposal is designed to let the IRS continue these efforts.

Maintaining the Legacy Systems. One accomplishment that often goes unheralded is the IRS' successful delivery of a tax filing season each year. A key factor in delivering a successful filing season is the group of conscientious employees in the Information Systems organization who continue to update the legacy systems, develop new computer programs to comply with legislative mandates, and manage a complex array of technologies.

Year 2000 Conversion. The most immediate challenge is the massive century date conversion project—the Year 2000 conversion. This challenge is not unique to IRS and much has been recently reported in various media about the magnitude of this problem. Most legacy systems are programmed to display "00" in the year fields, so that beginning on January 1, 2000, date-based calculations will be based unintentionally on an interpretation of the year field as 1900. Failure to identify, recode, and retest each of these date-based fields could result in the generation of erroneous tax notices, refunds, bills, interest calculations, taxpayer account adjustments, accounting transactions, and financial reporting errors. Put another way—such a failure could significantly burden the over 200 million taxpayers and IRS resources and jeopardize IRS' ability to carry out its mission. This conversion not only is vital to IRS but also to other organizations with which the IRS shares data, such as the Social Security Administration, Federal Reserve Banks, and most of the states.

To date, the Service has identified 62 million lines of computer code in the corporate systems that must be analyzed. The effort to make needed changes may exceed 2000 work years of effort on the part of both the IRS and its contractors to ensure these critical systems are century date compliant by January 1, 1999. The IRS also is aggressively completing the inventory of field based applications, which may require the review of an additional 40 million lines of computer code. In addition, the IRS is actively reviewing all commercial off-the-shelf software and hardware to either replace or upgrade to ensure compliance.

With the support of Congress through a $45 million fiscal year 1997 appropriation, the IRS has mounted a massive effort to ensure its systems become century date compliant. Given the broad scope of the Year 2000 Conversion, the Service also is diverting significant existing information systems resources to the project, deferring all but critical and legislatively mandated legacy systems changes during fiscal year 1997.

In fiscal year 1998, the IRS is planning a further expansion of the project and, therefore, has requested a total of $84 million. The IRS' Chief Information Officer is currently leading an extensive effort to identify and cost the corrective actions that will need to be taken. If the resource requirements change upon completion of the field-based applications inventory, updated information will promptly be provided to the Subcommittee.

To build the infrastructure for modernization and ensure that the Service's mainframe computers and supporting communications, network and customer service terminals are Year 2000 compliant, the Service has proposed consolidating its 67 mainframe computers at 12 sites to 12 computers at two sites. This effort is consistent with a recent OMB directive to consolidate data centers and with the modernization architecture. It will also address many of the Service's operational concerns as well as provide the backbone for the Service's efforts to improve customer service.

Management Processes and Practices. The Service has made significant progress towards improving the management processes and best practices that are requisite to managing the size and scope of IRS' modernization efforts. Specifically, the Service has focused fiscal year 1997 resources on the development of the program infrastructure—systems architecture and systems life cycle—needed to undertake major modernization efforts. The IRS adopted a Systems Life Cycle that provides the policies and processes needed to manage systems development efforts. The Systems Life Cycle is consistent with industry practice, thereby underscoring the commitment to shift significant aspects of the technology modernization efforts to contractors. The Service has completed a modernization blueprint, including the architecture, which identifies critical business requirements and provides for a sequenced rollout of modernization projects based on prioritized business needs.

Advancing Modernization. The IRS has also put in place an investment review discipline to assess and prioritize information systems investments, monitor progress of spending against plans, and evaluate the results of those investments. The IRS Investment Review Board (IRB) has reviewed all ongoing technology development projects. Projects that failed to demonstrate significant business value or comply with best practices for disciplined systems development have been suspended. To date, the IRB has suspended the Document Processing System, Corporate Accounts Processing System, Workload Management System, and Integrated Case Processing System, resulting in significant future cost avoidance. The IRB also is overseeing the reallocation of resources from these projects to higher priority investments, in accordance with the principles of the Information Technology Management Reform Act.

Last year, Art Gross was selected as the IRS Chief Information Officer. Art has significant technical management expertise and an excellent grasp of the tax "business." This year, the Service has continued to strengthen its information technology management capabilities with the appointment of the new Director of the Government Program Management Office (GPMO), who is an experienced systems development program management executive from the New York State Department of Taxation and Finance, and a new Director of the Systems Standards and Evaluation Office (SSE), who was formerly with the GAO and has extensive experience in the development of systems life cycle standards, policies and procedures, and information technology program evaluation and oversight.

The IRS recently initiated an aggressive, nationwide recruitment program for well-qualified individuals to fill approximately fifteen executive and senior management positions to enable the IRS to strengthen and improve its overall management of modernization efforts, including management of contractors.

One measure of the effectiveness of an information technology organization is the comprehensiveness of its product assurance program. Between 1992 and 1996, IRS' Information Systems organization downsized by over 2,000 positions, with a disproportionate reduction in the product assurance program. In the product assurance program, resource levels sank to less than 30 percent of the industry standard. Accordingly, in 1997, the IRS is undertaking a major rebuilding of this program to mitigate systems acceptance testing deficiencies that have prevented the thorough testing and certifying of principal IRS operating systems.

At the same time, the IRS continues to transfer significant aspects of the technology modernization program to the private sector. The December 1, 1996, report to Congress documents the modernization program resource allocation; 64 percent of it is provided by the private sector. The largest and most important initiative for fiscal year 1997 was the contract recently awarded to develop, pilot, and implement the submissions processing manual data entry systems replacement. The IRS also is in the process of competitively acquiring a Systems Engineering and Technical Assistance (SETA) contractor to provide technical, program, and project management guidance to the modernization effort. Pursuant to the fiscal year 1997 Treasury appropriation, the Treasury Modernization Management Board is conducting the preparation of a Request for Proposal for a prime contractor to manage, integrate, test and implement the program.

The IRS has completed its strategic modernization plan, which integrates implementation schedules and establishes completion dates for each of the major components of the plan. The major components are (1) a Modernization Blueprint, which

focuses on rebuilding the corporate data bases to enable customer service taxpayer account resolution and improved compliance; (2) a procurement strategy to shift primary responsibility for systems development and integration to the private sector; and (3) linkages among the short-term legacy and operational systems enhancements, the Year 2000 project, and the longer-term modernization sequencing plan. The modernization plan was submitted, as required, to Congress in May 1997.

Downsizing. Significant progress is being made toward the Year 2000 Conversion and implementing the program infrastructure needed to undertake major modernization efforts. However, the IRS also needs to manage a nearly 10 percent downsizing of the Information Systems program staffing levels during fiscal year 1997. The fiscal year 1998 budget provides for a further downsizing of 736 FTE's. While this downsizing plan reflects the intention to shift additional elements of modernization to the private sector, this additional staff reduction must be carefully managed, given the importance and magnitude of the Year 2000 conversion and the number and the critical nature of initiatives that are underway in addition to modernization.

Security of IRS Information. The IRS has long understood that protecting taxpayer information is essential to maintaining our country's self-assessment tax system. We also know that our security and privacy programs need to be strengthened, so that the Service has integrated and consistent safeguards in place to adequately ensure (1) the privacy and security of taxpayer account information; (2) continuity of its operations; and (3) security of the infrastructure for modernized systems.

One taxpayer security area of particular concern to this Subcommittee and to us is the unauthorized access to taxpayer data by IRS employees—or "browsing." The IRS does not tolerate browsing. We consistently stress both within and outside the IRS that unauthorized access of taxpayer accounts by IRS employees will not be tolerated.

In the past several years, the IRS has taken a number of steps to ensure that unauthorized access of taxpayer information by IRS employees does not occur. It recently has taken action to further improve its processes and approach to better deal with unauthorized access to taxpayer records. The Service has a legal requirement to protect taxpayer records. The IRS review initiated a number of new actions aimed at improving deterrence, prevention, detection, and penalties. For example, in the area of detection, the IRS is centralizing case development for unauthorized access in its Office of the Chief Inspector to give it the high-priority attention that is needed to deal with such violations.

In addition to the internal actions, the IRS has recommended and supported legislative efforts to amend the Internal Revenue Code and Title 18 to clarify the criminal sanctions for unauthorized computer access to taxpayer information.

IV. USING THE FISCAL YEAR 1998 BUDGET TO ACHIEVE IRS' STRATEGIC GOALS

The IRS is one of the early federal agencies to use an integrated Strategic Management Process, one in which planning, budgeting, investment, performance measurement, and program evaluation processes are integrated. The IRS developed its strategic management process after consulting with other public and private sector organizations. The Service uses performance indicators to monitor progress during the year, to make mid-course adjustments to optimize performance, and to evaluate performance at the end of the year. In the fiscal year 1997 budget request, the Service included outcome-oriented performance indicators rather than the traditional workload output measures. For fiscal year 1998, the Service refined these performance measures and used them to evaluate its program choices (see Appendix). Setting long-term goals and annual targets, managing activities to achieve those goals and targets, measuring performance annually, and holding people accountable will help improve tax administration. It will also help the IRS and Congress make more informed budget decisions about balancing resources across these objectives.

Fiscal Year 1998 Increases. The fiscal year 1998 IRS budget totals $7.369 billion and 102,385 FTE. It includes gross increases of $308 million and 195 FTE, amounts which are reduced by $143 million and 736 FTE. This produces a net increase of $165 million and a net reduction of 541 FTE from the fiscal year 1997 operating level (See Charts 5 and 6). Also, an Information Technology Investment Account has been proposed to respond to the requirements of the Federal Acquisition Streamlining Act of 1994 and the Information Technology Management Reform Act of 1996.

The $308 million increase has been requested to permit the Service to do the following: (1) maintain current service levels; (2) fund critical operational information systems needs; and (3) fund a very modest increase for Criminal Investigation to detect overseas money laundering. The $143 million in program reductions includes $113 million from Information Systems and $30 million from rent.

—*Maintaining Current Service Levels.* The Service needs a $214 million increase to fund mandatory pay increases and to maintain fiscal year 1997 program levels in fiscal year 1998. Without this increase, the Service would have to reduce the number of employees and the programs they deliver as well as further erode funds for essential training, travel, and enforcement expenses.

—*Funding Critical Operational Information Systems Needs.* The Service is requesting a $93 million increase for Information Systems investments to finance immediate improvements in taxpayer services. Much of this increase will be used for Year 2000 Conversion efforts. However, a portion will be used to test programming changes for major information systems; to replace vital but aging Service Center computers used to process remittances and input data from tax returns; and to replace some of the laptop computers we use to examine individual and business returns.

—*Deterring Money Laundering.* The Service is requesting a $1 million increase to combat overseas money laundering. Many governments are considering, or have adopted, laws to criminalize money laundering and other financial crimes. The globalization of financial markets and the U.S. economy, and criminal organizations' increased sophistication at concealing illicit gains, have created an environment that requires the expertise of IRS special agents. This includes facilitating the development and utilization of information obtained in host foreign countries in support of criminal investigations over which the Service has law enforcement responsibility and providing assistance and support in establishing or enhancing money laundering, criminal tax, and asset forfeiture laws. This international strategy is critical for effective law enforcement against money laundering, criminal tax and other financial crimes which no longer are limited by their geographic boundaries.

As a labor intensive organization (over 70 percent of our total budget goes for labor costs) funding for the pay raises and other non-discretionary inflationary costs is crucial. For example, a "rollover" budget in fiscal year 1998—one that is at the same dollar level as fiscal year 1997—would not allow us to both fund the pay raise and maintain FTE levels. Instead, IRS would need to reduce 4,000 FTE and this would impact levels of assistance and revenue collection. Looking at the IRS budget over the next five years (fiscal year 1998 to fiscal year 2002), if the Service receives each year approximately the same dollars as today, it would in effect be taking a $1 billion cut in "purchasing power." To pay for this reduction, IRS would need to reduce its FTE by approximately 4,000 FTE per year for a total loss of FTE Servicewide of about 20,000. This reduction would need to be taken across the board and would impact all of the Service's programs. Modernization offers the potential to increase productivity and reduce the impact of FTE reductions but modernization investments need to be fully deployed before long term productivity benefits can be realized.

V. IMPROVEMENTS IN FINANCIAL MANAGEMENT

The GAO had listed five financial management problems as major contributors to the failure of the IRS to receive a clean financial audit opinion—two related to the administrative area and three to the revenue area. IRS has made significant progress toward correcting these five major findings.

1. Amounts reported as appropriations available for expenditure for operations cannot be reconciled fully with Treasury's central accounting records. IRS has worked with GAO to bring this issue to resolution. As of fiscal year 1996, the reconciliations are current and there is an automated mechanism in place to ensure that these balances are reconciled monthly.

2. A significant portion of IRS' reported $3 billion in non-payroll operating expenses cannot be verified. The IRS can and does have acceptable and auditable records to verify commercial vendor payments. The $3 billion in non-payroll operating expenses could not be verified because of the interagency payments included in GAO's sample. Within this sample were interagency payments for which they questioned whether the IRS had support showing receipt and acceptance from other federal agencies, primarily GPO and the General Services Administration.

The interagency payment problem deals with a receipt and acceptance issue related to goods and services received from other federal agencies paid via the government's Online Payment and Collection system. Because they identified these transactions as exceptions, they concluded that their testing (review of supporting documentation) of the non-payroll expenditures could not be projected to the universe of $3 billion; therefore, they could not verify the non-payroll expenditures.

The IRS has been working closely with GAO to define the problem areas and to propose interim and long-term solutions to the receipt and acceptance issues.

3. The amounts of total revenue and tax refunds cannot be verified or reconciled to accounting records maintained for individual taxpayers. The IRS is now using individual taxpayer records to prepare financial statements and to ensure that the auditors can verify and reconcile the total revenue and tax refunds to the accounting records maintained for individual taxpayers. This is being done until such time as longer term systems solutions can be implemented.

4. Amounts reported for various types of taxes collected (social security, income, and excise tax, for example) cannot be substantiated. In preparing the fiscal year 1995 and fiscal year 1996 financial statements, the IRS made great progress in developing methods to substantiate the revenue collected. For Social Security, the IRS developed an extract that enables it to report and match assessment and collection information. As stated earlier, the IRS is also using the Masterfile to provide all detailed transactions to support income tax collected. In providing excise tax information, the IRS will continue to analyze monies assessed and collected to determine if there are significant differences. Additionally, the IRS is developing programming that will enable it to have detailed assessment and collection information as it does with Social Security.

5. The reliability of reported estimates for $113 billion in accounts receivable and $46 billion for collectible receivables cannot be determined. During the fiscal year 1995 audit, initial testing by GAO resulted in its conclusion that the Service's program that classified receivables as financial receivables, financial write-offs, and compliance assessments was flawed. Based on a review of cases this year to determine the validity of our categorizations, GAO has indicated that the systemic process is accurately segmenting our portfolio of receivables. GAO's next step is to review the supporting source documentation for the selected cases to verify they are accurate. The Service is in the process of building the ARDI Expert System, a centralized data base that allows analyses to be performed on the entire inventory using all of the existing information.

Status of 59 Recommendations. The GAO has made 59 recommendations through their financial statement audits for the last four fiscal years. Of the 59 recommendations, the IRS and GAO agree that the IRS has implemented 22 of them. Of the remaining 37, the IRS believes it has met the requirements on an additional 23. The Service is working with GAO to get agreement before actually closing these items. Of the remaining 14, 9 are scheduled to be completed by the end of the fiscal year; and five have completion dates beyond fiscal year 1997. The IRS is committed to working with GAO to resolve these recommendations and believes that through mutual cooperation and effort this goal will be achieved.

VI. REORGANIZATION

Beginning in 1993, the IRS announced the first of a series of reorganizations designed to streamline operations and reduce costs—a process that continues today. These carefully considered efforts, conceived and undertaken well before IRS appropriations were reduced in fiscal year 1996, were done in recognition that the IRS should concentrate the maximum amount of its resources on effectively and efficiently meeting customer needs. Prior to these organizational studies, the IRS organization had been relatively unchanged for forty-plus years.

The National Office has been reduced in size; three regional offices have been closed; 63 district headquarters have been consolidated into 33; 80 administrative support offices have been consolidated into 23; and 70 customer service sites have been reduced to 30, and ultimately will be consolidated and centralized to 24. Taxpayer assistance levels and problem resolution service have been improved over the past year. Consolidating offices and centralizing operations reduces or avoids redundant infrastructure costs, such as space, telecommunications, toll-free call distribution systems, and management overhead, thus allowing the Service to devote more resources to service to taxpayers. When the district and headquarters reorganizations are completed this fall, the IRS estimates that almost 2,900 overhead positions will have been eliminated.

For almost three years, the IRS, working with the National Treasury Employees Union (NTEU), has used a variety of voluntary transition tools to move employees into the new, streamlined organizational designed. In October 1996, the IRS and NTEU signed a Pre-Reduction In Force (RIF) Activities Agreement which provided buyouts, outplacement assistance, and moving expenses for affected employees. As a result of this agreement, and with the approval of Congress, almost 1,300 employees accepted buyouts. These were either employees in non-continuing positions, or those who occupied a position that created a placement opportunity for an employee in a non-continuing position.

In May 1997, the IRS and NTEU signed a third amendment to the original Pre-RIF Agreement which provides additional placement assistance. The IRS is hopeful that this amendment will also help reduce the number of employees who might be involuntarily separated as a result of RIF later this summer. However, despite the Service's extensive voluntary efforts, there are still in excess of 1,100 employees who have not been placed into continuing positions.

The IRS and NTEU reached impasse concerning the procedures to be used for implementing the RIF, and resolution of the disagreement has been referred to the Federal Services Impasses Panel (FSIP). A hearing will be held before the panel July 8–10, 1997, and the IRS is hopeful for a decision shortly. The Service's inability to finalize its reorganization has caused a significant imbalance between workload and people. IRS has begun local negotiations on moving work, and certain critical vacancies have been filled in the continuing district headquarters (within funding limitations). However, until such time as the savings becomes available from the reorganization, the IRS will not be able to fully realize the efficiencies envisioned in its reorganizations. The IRS is currently placing employees in continuing positions and will know within the next month or so how extensive a RIF will have to be. After that, and once a decision is issued by the FSIP, the Service will move forward to separate employees. I know there is continuing interest in this matter by the Subcommittee and the IRS will continue to keep you informed about how it is proceeding.

VII. CONCLUSION

My colleagues and I appreciate the opportunity to present this testimony. The IRS is committed to achieving its mission in a way that provides the information and assistance required by our citizens and at the same time reinforces the overall fairness of the tax system by seeing to it that all of us pay our correct share of taxes. Under the most stable of circumstances this is a challenging responsibility. The testimony has highlighted some of the most important advances that we have made and also pointed out the many areas that still require improvement. The Service appreciates the consistent interest and support of this Subcommittee and its staff and we look forward to a continuing strong relationship.

APPENDIX

Current IRS performance measures for fiscal year 1998

Budget level measures—Draft	*Fiscal year 1998 targets*
Mission Level	
Mission Effectiveness Indicator: Total Net Revenue—(Budget+Burden)÷Total True Tax Liability (percent)	79.9
Objective—Increase Compliance (IC)	
Total Collection Percentage	87.3
Total Net Revenue Collected (in trillions)	$1.57
Servicewide Enforcement Revenue Collected (in billions)	$35.2
Objective—Improve Customer Service (ICS)	
Taxpayer Burden Cost (in dollars) for IRS to Collect $100	$8.06
Initial Contact Resolution Rate	TBD
Toll-Free Level of Access (percent)	60.2
Tax Law Accuracy Rate for Taxpayer Inquiries (percent)	92
Objective—Increase Productivity (IP)	
Budget Cost to Collect $100	$0.47
Customers Successfully Served per Dollars Expended (in Customer Service Organization)	TBD
Percent of Returns Filed Electronically	17.5
Percent of Dollars Received Electronically	48.4
Percent of Remaining Dollars Received Via Third Party Processors (Lockbox)	66.3
Support Services Performance Index	$11,718
Budget Activity Code (BAC) Measures	
Submission Processing BAC:	
Number of Primary Returns Processed (in thousands)	203,829
Total Number of Individual Refunds Issued (in millions)	88

Current IRS performance measures for fiscal year 1998—Continued

Budget level measures—Draft	*Fiscal year 1998 targets*
Processing Accuracy Rate—Paper (percent)	95
Processing Accuracy Rate—Electronic Filing (percent)	99
Refund Timeliness—Paper (in days)	40
Refund Timeliness—ELF (in days)	21
Telephone and Correspondence BAC:	
Dollars Collected per Dollars Expended (in Customer Service Organization)	N/A
Taxpayers Gaining Access as a Percentage of Demand (in Customer Service Organization)	N/A
Number of Calls Answered (in millions)	111.4
ACS Dollars Collected per FTE (in millions)	$1.4
Service Center (Examination) Dollars Recommended per FTE	$480,000
Problem Resolution Program Average Processing Time To Close Cases—District Office (in days)	35.8
Problem Resolution Program Average Processing Time To Close Cases—Service Center (in days)	30.3
Problem Resolution Program Quality Customer Service Rate—Districts (percent)	89.4
Problem Resolution Program Quality Customer Service Rate—Service Centers (percent)	84.5
Currency of Problem Resolution Program Inventory—Districts (in days)	109.4
Currency of Problem Resolution Program Inventory—Service Centers (in days)	77.6
Document Matching BAC: Document Matching Dollars Assessed (in billions)	$1.2
Inspection BAC:	
Internal Audit Corrective Actions Completed (percent)	66.3
Criminal Cases Generating Prosecutions, Management Adjudications and Employee Protection Actions (percent)	58.3
Background Investigations Completed Timely (percent)	82.6
Corrective Actions Proposed, Investigations Closed and Employee Integrity Presentations Per FTE	8.33
Usefulness of Inspection Products to Customers	3.0
Management Services BAC: Support Services Overall Performance Index (percent)	3
Rent and Utilities BAC: Office Space per Employee (sq. ft.)	164
Criminal lnvestigation BAC:	
Fraud Convictions	1,756
Narcotics Convictions	656
Examination BAC:	
Field Examination Dollars Recommended (in billions)	$22.83
Field Examination Dollars Recommended per FTE	$1,008,348
Audit Coverage (percent)	.57
Appeals Non-docketed Cycle Time (days)	238
Appeals Staff Days per Disposal	2.14
Collection BAC:	
Field Collection Dollars Collected (in billions)	$5.87
Field Collection Dollars Collected per FTE	$542,000
Field Collection Average Cycles Per TDA/TDI Disposition	34.9
EP/EO BAC:	
EP Determination Letter Cycle Time (days)	150
EO Determination Letter Cycle Time (days)	87
EP Examination Cycle Time (days)	TBD
EO Examination Cycle Time (days)	TBD
Statistics of Income BAC:	
Percent of Statistics of Income Projects Delivered on Time	90
Statistics of Income—Quality Customer Service Rate (percent)	90
Chief Counsel BAC:	
Technical Advice and Service Assistance	51
Private Letter Rulings and Advance Pricing Agreements	51
Regulations, Revenue Rulings & Procedures, and Legislation (completions)	7

Current IRS performance measures for fiscal year 1998—Continued

Budget level measures—Draft	*Fiscal year 1998 targets*
Docketed Tax Court Litigation Closures	63
Counsel Bankruptcy Closures	231
Counsel Litigation and Advisory Support	216
Operational Information Systems BAC:	
Integrated Data Retrieval System (IDRS) Real Time Availability (percent)	99.0
Weekend Taxpayer Information File (TIF) Update Completion Times (percent)	85.6
Corporate Files On-line (CFOL) Availability (percent)	99.0
Developmental Information Systems BAC: None	NA

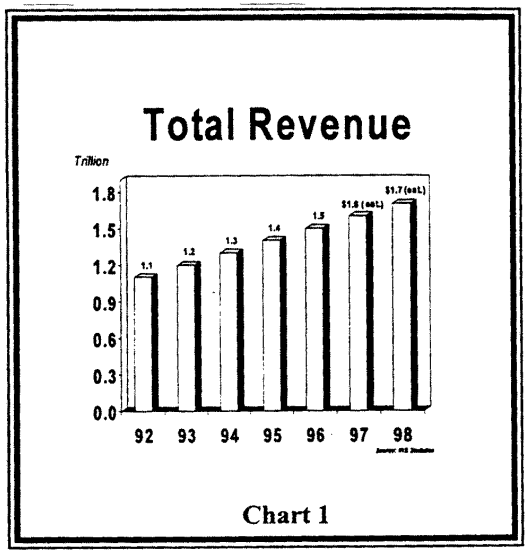


Chart 1

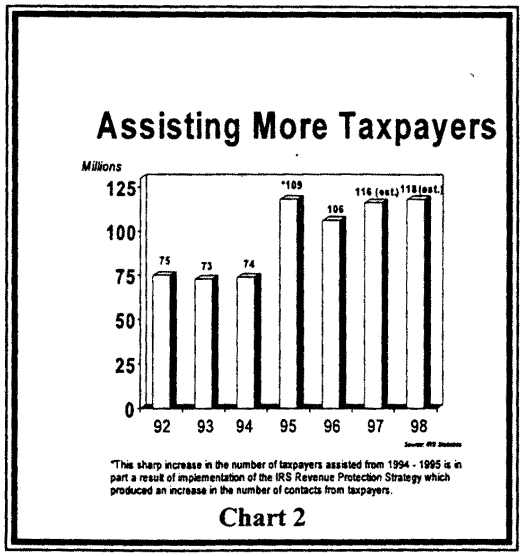
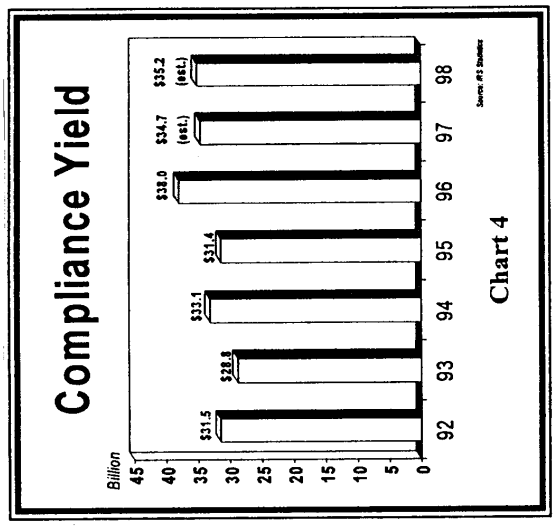
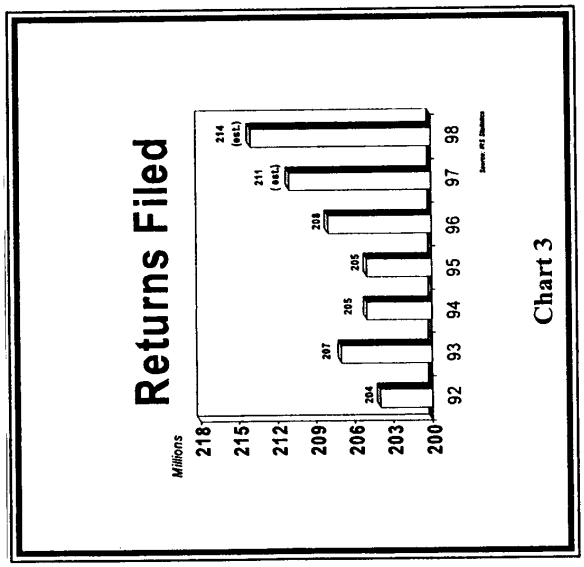
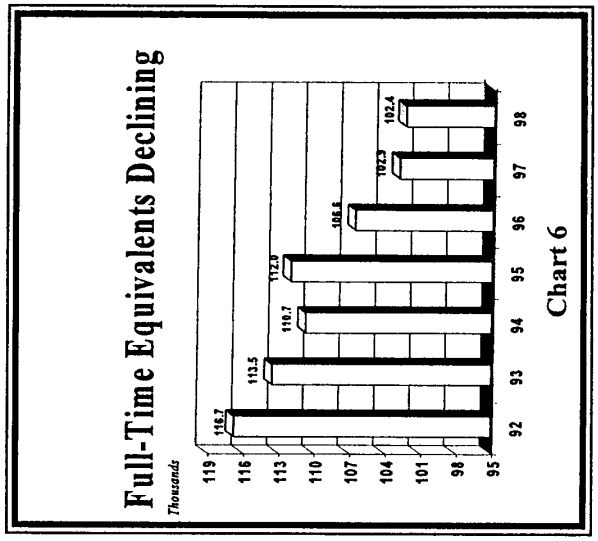
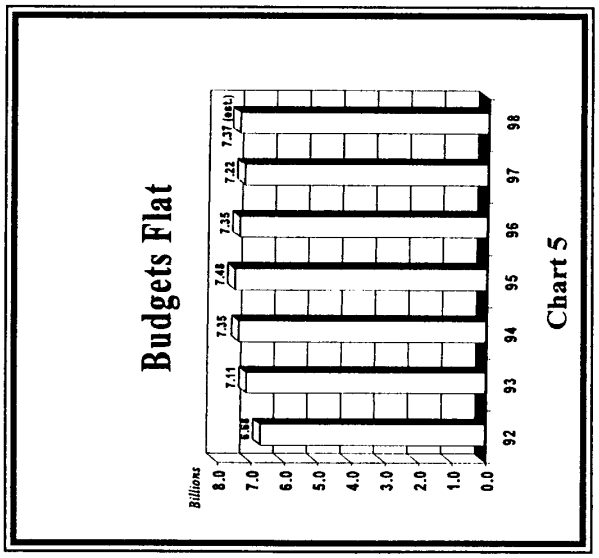


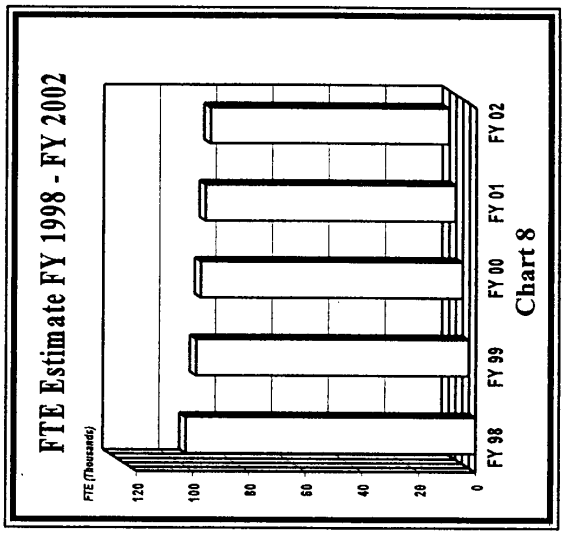
Chart 2

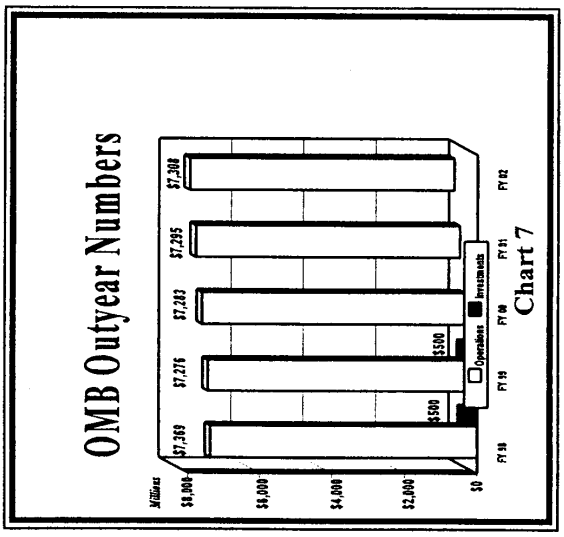

Compliance Yield
Billion
45
40
35
30
25
20
15
10
5
0
$31.5
$28.8
$33.1
$31.4
$38.0
$34.7 (est.)
$35.2 (est.)
92
93
94
95
96
97
98
Chart 4


Returns Filed
Millions
218
215
212
209
206
203
200
204
207
205
205
208
211 (est.)
214 (est.)
92
93
94
95
96
97
98
Chart 3


Full-Time Equivalents Declining
Thousands
119
116
113
110
107
104
101
98
95
116.7
113.5
110.7
112.9
105.6
102.3
102.4
92
93
94
95
96
97
98
Chart 6


Budgets Flat
Billions
8.0
7.0
6.0
5.0
4.0
3.0
2.0
1.0
0.0
7.11
7.35
7.48
7.35
7.23
92
93
94
95
96
97
98
Chart 5


FTE Estimate FY 1998 - FY 2002
FTE (Thousands)
120
100
80
60
40
20
0
FY 98
FY 99
FY 00
FY 01
FY 02
Chart 8


OMB Outyear Numbers
Millions
$8,000
$6,000
$4,000
$2,000
$0
$7,369
$7,276
$7,283
$7,295
$7,308
$500
$500
Operations
Investments
FY 98
FY 99
FY 00
FY 01
FY 02
Chart 7

COMPUTER MODERNIZATION EFFORTS

Senator CAMPBELL. It is my understanding that you will be testifying and other folks of the panel will be for questions. Let me just start by saying that I have a number of questions, some of them pretty technical, dealing with the year 2000 issue, the Y2K issue. I have about six or seven questions in that area. Those I would like to submit and ask you to return the answers to the committee if you would, and just ask you a few general ones here.

We have all heard reports that the IRS has wasted $4 billion on computer modernization efforts over the past 10 years. I think the committee understands the need for modernization and certainly supports the IRS in that effort. This subcommittee is going to be very reluctant to waste another $4 billion of taxpayers' money. You have mentioned a number of things like simplification reports to Congress and not being supportive of the commission that Senator Kerrey recommended.

I would like to ask you, how are you going to assure that this time around, the money that we appropriate for modernization is going to be spent in a better fashion than it was the last time?

NEW MODERNIZATION MANAGEMENT

Mr. SUMMERS. Let me give a very brief answer if I could and then refer the question to Mr. Gross who has that responsibility. There is new management over the modernization program, a new Commissioner who has experience in this area, a Chief Information Officer who has done it successfully. Other senior executives previously associated with the program are no longer associated with the program.

A new approach is being taken. That approach is based on only investing in the context of an architecture with a clear signoff by a tough-minded review board. It is based on an approach, in a sense, that involves planning before you build rather than building before you plan.

It is based on the IRS no longer seeking to be its own systems integrator; but instead, going to the outside through a prime contractor mechanism and getting the expertise done by people who have done this kind of work before.

By taking—and it is based on proceeding in small, measurable steps rather than in large steps where you cannot monitor performance for a period of several years. That is what the best practice in the private sector is. The person who is really doing it and who has prepared the architecture to date is Art Gross, so I might ask him to comment.

Senator CAMPBELL. Go ahead, Mr. Gross.

Mr. GROSS. Thank you, Mr. Chairman. All of the elements that Deputy Secretary Summers reported are precisely the elements required to go forward. In addition, as GAO reported, there are major process and practice deficiencies within the Internal Revenue Service with respect to our ability to build systems today.

GAO RECOMMENDATIONS

For that reason, we do not plan to begin modernization until fiscal year 1999, and in the interregnum, we are in the process of im-

plementing the recommendations that, in fact, GAO has reported. We agree with those recommendations.

We have implemented several of those elements, including the issuance of an architecture, the issuance of a sequencing plan, the completion of an integrated test and control facility, and there are several other elements in play and underway to significantly mitigate those material weaknesses.

Senator CAMPBELL. I see. I do not know if you were in the room when Senator Faircloth was asking some questions or when Senator Shelby did, but I think they reflect the feeling of some of the members of the committee, in fact, maybe all of us, that we are having trouble determining a number of things in the IRS.

One is, who is the person held responsible for IRS performance? I mean, we hear comments from the GAO and so on, but I know we just recently finished a hearing a couple months ago on browsing, and at that time, I was having problems finding out who the heck was responsible for reprimanding, for firing, for doing any number of things that should have been done and we found out people were just going through records with no authority to do so.

Perhaps you could tell us that. Do you feel that you are the one who is going to be accountable for the performance or the lack of, as it moves down the line, Mr. Summers?

Mr. SUMMERS. The Secretary and I take responsibility for everything that happens at the Treasury Department.

Senator CAMPBELL. You also determine the direction the IRS takes along with the Secretary accepting the responsibility for that activity?

Mr. SUMMERS. The Secretary and I accept responsibility for the direction the IRS takes and for the top management choices at the IRS. The Secretary and I, in turn, hold the Commissioner of the IRS or, at this point, the Acting Commissioner of the IRS, accountable for performance of the organization and we expect the Commissioner, in turn, to hold their key subordinates accountable for performance in their specific areas.

I think that is the only way to manage an organization and this is really something that we see as a central aspect. The Secretary has, I think, said many times that it would be easier, from his point of view, not to accept this kind of accountability, but we believe that if we are to have the best chance of success, it is crucial that the senior management of the department, directly in turn responsible to the President, be accountable for IRS performance.

We would be very concerned about the proposals that would undercut that accountability by turning management over to a group whose primary loyalty and primary obligation was to their own private executive careers. We are prepared to accept that accountability.

PRIVATE DEBT COLLECTION

Senator CAMPBELL. In the fiscal year 1997 bill, this subcommittee funded a private debt collection project which was to do a pilot allowing the private sector to collect on accounts that the IRS considered uncollectible.

There has been some concern expressed by the private sector that the pilot was set up to fail. I mentioned this earlier today, be-

fore you came in, with another panel. Could you give us a status report on that private debt collection, on the pilot for it? Mr. Dolan?

Mr. DOLAN. If I might, Mr. Chairman? I was here when you expressed interest earlier in the day. Essentially, I was a little disappointed by the characterization by the GAO because it is not quite on point with what I thought we had understood when we dealt with them face to face.

The inference left was that there was something about the test and the way it was created that caused it to fail. Quite the contrary, I think what was tested were some propositions that the Congress asked us to test, which was essentially that there are some accounts that we do not get through today that are not determined, either because they are not locatable or because they are of a low dollar value.

The hope was that we would experiment in an area that was considered not inherently governmental, and what turned out to be the crux of this, Mr. Chairman, was the contractor is unable to do the kinds of things that Senator Faircloth was talking about, by law.

It was unable to seize, to levy, to do those sorts of things. And given the legal constraints of that understanding, I think the contract has not proven to be, essentially, a good business decision because the yield has been barely equivalent to the actual amount the Government has paid out.

SMALL BUSINESS IN COLORADO SPRINGS

Senator CAMPBELL. OK. Thanks. Let me turn to a personal problem of a constituent. I have a constituent—she has moved to Albuquerque now, but she was in Colorado Springs for a number of years and had a small business there, by the name of Carol Ward.

She went to court, as you know—or maybe you do not know—perhaps you can review that if you do not know the circumstances. But according to some of the reports, particularly in our major newspaper in Colorado, the Denver Post, she made some comments to her auditor that the IRS felt threatened from or became angry about and her business was raided and locked up for owing $324,000 after that.

Obviously, she did not settle for that. She hired an attorney and took it to a judge and the judge in Denver found the IRS agents were grossly negligent, and that they acted in a reckless disregard for the law, according to the article in the Post.

They then awarded her a judgment of—I forgot what it was now. I think about $250,000 or something. It was a pretty large judgment. But in the meantime, they confiscated her property, they locked up her building, her daughter ended up quitting high school because the IRS statements were posted in the stores around. That led students to believe that the family was somehow involved in some kind of illicit drug smuggling.

She did not owe any debts before this big problem was caused, and by the time the IRS finished with her, she owed $75,000 of private debts because her store was boarded up. The comments she made to the IRS were the kind that anybody probably would have made if they felt harassed.

She said, and I want to quote this, when she accompanies her son to one audit after a rather rancorous meeting, she told the auditor, "Honey, from what I can see of your accounting skills, the country would be better served if you were dishing out chicken fried steak on some interstate in West Texas with all that clunky jewelry and big hair." And that apparently really angered the person doing the audit and she got in a lot of trouble after that. The judge, of course, straightened that all out, but she is still out of business.

I would like to know a couple of things. First of all, do the IRS employees receive training in law and policy in this area?

Mr. DOLAN. Yes, Senator, they do.

Senator CAMPBELL. What disciplinary action was taken as a result of that incident—by the way, the IRS admitted no wrongdoing. The judge said they did and they awarded her a monetary settlement. But the IRS never admitted wrongdoing. But has there been any disciplinary action taken because of this incident?

SMALL BUSINESS IN COLORADO SPRINGS

Mr. DOLAN. Senator, if you would permit me, I would like to give you a careful answer on this because the decision you talk about, the district court decision is, in fact, a court decision that deals exclusively with whether the disclosures that were made in the particular taxpayer's case were ones that were actionable.

The district court case did not, at any point, deal with the merits of the underlying tax issue, but the reason I am saying I want to be careful about this is that I do not want to, in this forum, breach any of the confidentiality around the taxpayer. So as a consequence, I cannot and will not talk about the underlying tax circumstances that the taxpayer confronted or how we might have dealt with that.

I will tell you, Senator, that I read the decision, the district court decision very carefully the day after it was issued. There were a number of allegations that the plaintiff took to the court. All of those allegations are dealt with by the court, all of them centering around some aspect or another.

There was a finding of wrongdoing and if that finding indeed turns out to be factual, if the finding of what the revenue officer did——

Senator CAMPBELL. This is an internal investigation?

Mr. DOLAN. Where we are right now, Senator, is between the point of consulting with the Justice Department on whether or not there will be an appeal of the decision. Once that judgment is made——

Senator CAMPBELL. When do you expect that judgment?

Mr. DOLAN. If you would allow me to come back to you with the specific timeframe?

Senator CAMPBELL. Yes.

Mr. DOLAN. And what I will do, subsequent to that judgment, is look particularly at the one employee's conduct that was the basis for the punitive damages that were awarded in this case.

Senator CAMPBELL. OK. I would appreciate it if you would get back to me on that. Senator Kohl.

REDUCTION OF IRS FUNDING

Senator KOHL. Mr. Summers, GAO said that we ought to send the IRS a message by reducing their funding. Do you have any thoughts on that?

Mr. SUMMERS. Senator, it will not surprise you if I tell you that I would not recommend that course of action, and I would not recommend it for three reasons.

First, I think the IRS has gotten the message from a 10-percent real reduction in funding that it has received over the last several years, from the fact that it has been forced to downsize by more than 12 percent, and from the kind of ongoing oversight that it is receiving from the Treasury Department and the enhanced attention that it has received from Congress.

So I think the sense that there is a need for important change is a message that has been well-received. Second, if we are to have a prospect of bringing about that change, it cannot just spring full-blown.

What Mr. Gross testified was that the work of modernization with the prime contractor and all that was basically going to begin in 1999, but that there were important preparatory steps, in part involving the year 2000, in part involving developing the capacities necessary to mobilize the prime contractor, in part in modernizing other systems so that they would be ready to integrate with modernization.

If those resources were not made available, I think the consequences in terms of our ability to bring about the change we are trying to bring about would be very serious.

Third, I would just remind you, as painful as it is, of the seriousness of the Y2K issue where our choices are few and expensive, and if we are going to have any prospect of dealing with that in a rational way, I think that we would certainly need the funding we have sought.

I think GAO in its report, while it has been critical of some aspects, I think does recognize that the Y2K needs, if I understood the written report correctly, are likely to be somewhat greater than has been estimated so far.

TREASURY OVERSIGHT OF IRS

Senator KOHL. All right. Can you tell us, Mr. Summers, with some specificity how much time you will be able to be spending on these IRS issues? That is a great concern to us.

Mr. SUMMERS. As I said, I think when I last had a chance to testify before this committee, I am spending more time on the IRS than on any other single project or single thing that I am involved with at the Treasury Department, and essentially no day goes by in which I do not have some involvement with an IRS-related issue.

There are people who are directly on my staff whose essentially full-time responsibility is to be involved in IRS oversight and who are in close touch with me. I should say also that Secretary Rubin is very involved in the oversight of the IRS. About a week or 10 days ago, we had a meeting to review a variety of priorities with

Secretary Rubin and myself and the Treasury oversight staff and the IRS senior management team that is present here.

TAX REFUND OFFSET PROGRAM

Senator KOHL. All right. Mr. Dolan, the IRS has successfully improved child support collection nationally through the tax refund offset program, as you know. This has helped collect more than $1 billion in past due child support just last year.

But $34 billion is owed in child support past due payments to our Nation's children, so we would all like to see that program expanded. I would like to ask you what the potential for child support collections is under this program, in particular, how much of that $34 billion in past due support do you think that we will be able to collect and how would these increased collections impact your own resource needs?

Mr. DOLAN. Senator, I am not sure I can give you a quantification of how much we can get that you would want to take to the bank. I would say, and I think you know that based on some requests you made of the Commissioner earlier, we essentially were quite encouraged by the potential capacity to do some information matching with the Social Security Administration.

I think we are in the final stages of making sure that there isn't an impediment in Social Security's ability to share that with us, and the lawyers are in the final innings of that.

We felt pretty confident that if we could get that kind of data coming to us, which would essentially help us identify the right match between parent and child, that we could put it into one of our front-end programs that is a reasonably inexpensive way to match data and to go with a process that we essentially call an unallowable process, which does not envision the whole paraphernalia of an audit and all that.

At this point, it would be a question of finding the resource to fund that program, but it is a relatively high return on investment kind of program. So it is a long-winded way of saying to you, if we can match the information but for this impediment on the privacy side, we think it is quite likely that we can put together a reasonably easy and, we think, high return program where we would take advantage of that data at the front end of the tax processing system.

Senator KOHL. Good.

Mr. DOLAN. I would like to reserve the right to come back to you as we figure out this last hurdle so that we can maybe tell you more particularly what will come from that.

YEAR 2000 DATE CONVERSION

Senator KOHL. All right. Mr. Gross, year 2000 conversion is an area of great concern for all agencies, and especially those whose mission rely heavily on computer services. In fiscal year 1997, Congress provided IRS with $45 million in the IRS fiscal year 1998 budget submission request of $84 million for this conversion.

I now hear that this may not be enough and that the IRS will request $258 million. Can you explain why this number has been changed so often and who approved these changes?

Mr. GROSS. Senator, the Y2K problem has been an endemic problem for both the Internal Revenue Service, as you know, and all organizations depending on computers. When my tenure began in April 1996, we had three personnel and a total Y2K budget for the entire program of only $20 million.

Since April 1996, which is 14 months ago, the Internal Revenue Service and Treasury have made a full—an intensive effort to create a viable Y2K program. When we developed our estimates, we made it quite clear—IRS, in conjunction with Treasury—that there are significant parts of this program, given the aging infrastructure, that we would not be able to estimate the cost of conversion for some time and that is still the case.

If I could just go a bit further to give you some specifics? When we submitted a projection in 1997 for 1998, that projection did not take into account our field-based business operating systems, it did not take into account our telecommunications infrastructure, nor did it take into account the computers on which these applications actually run.

It did not take those elements into account because we simply had not been able, at that time, to identify the Y2K issues associated with that infrastructure. Much of that has now been identified through the auspices of a partnership with the private sector. We engaged IBM and UNISYS with IRS to, as aggressively as practicable, develop the Y2K solution for a major component of the infrastructure, and that represents the lion's share of the $258 million funding need for 1998.

Regrettably, we have not completed all of the inventorying of other elements of the infrastructure nor our field applications, and the implications of that are, as Deputy Secretary Summers reported, we believe that there are funding implications that will continue into fiscal year 1999, that we still have not fully identified all elements of the problem.

What we can say, however, is that we believe we have identified and programmed all of the required conversion activities around the core tax systems, those systems that support the programs that service America's taxpayers. In other words, we believe we have identified the solution, the Y2K solution, for our ability to process tax returns, issue refunds, and manage our customer service and compliance programs.

YEAR 2000 DATE CONVERSION

So we have identified on a priority basis consistent with GAO planning guides, we have identified on a priority basis those applications that must be converted by year 2000, and we still have work to do on some of the lesser priority, but nevertheless important systems.

EARNED INCOME TAX CREDIT FRAUD

Senator KOHL. All right, thank you. Mr. Dolan, many of us are long-time supporters of the earned income credit. It represents good public policy and is more important than ever now that we are trying aggressively to move people off public assistance and into the work force.

But it is troubling that roughly 25 percent of the EIC filers overclaim that credit by more than $4 billion a year. How serious are the EIC noncompliance rates compared to problems with other tax provisions, and has the IRS made progress in bringing these rates down?

Mr. DOLAN. Let me start maybe at the back of the question and move forward. I think we feel reasonably good about the progress that has been made in recent years. I think as you may well remember, Senator, there was a full-court press put on in this arena 2 or 3 years ago based on some help that we got from some folks from the Kennedy School looking at different ways of both detecting and reacting to what we found out is not an uncommon phenomena across lots of parts of the financial services industry.

So we took a look at best practices and ways of trying to do both things, both educate people—because a fair amount of these overclaims come as a result of people not understanding. And so there has been considerable work done in outreach and simplification of forms and schedules.

Another area on which I would like to report more progress that we have made, but on which we still look for colleagues, is expanding the advanced earned income program. Because to the extent that we can get people on the advanced earned income program, it (*a*) assures that they are doing it right, and (*b*) it does not put this push, this press on the end of the year.

But as to the actual claims, we have used a variety of electronic filters. We have again taken some consultation from some experts in this field as to how to detect patterns. Some of it, quite frankly, proved to be unscrupulous preparers who were leading people down roads that should have seemed too good to be true and, in fact, they were too good to be true.

We had a very aggressive program looking at those kinds of folks and trying to eradicate them from the system. And so, I would say probably none of us are comfortable if you talk about an over-claim rate or an under-pay rate of more than zero.

But if you look at the spectrum of our tax gaps, we find that there are lots of individual components of the tax cap where we are going to continue to work on bringing them down.

I would say that is the way we have looked at earned income. I would not want to sit here and report to you that it is as good as it is going to get, but I also would not want to sit here and decry it, because I think we have made great progress and I think we expect to make even more progress on it.

Senator KOHL. OK. Thank you, Mr. Dolan. Mr. Chairman, thank you.

Senator CAMPBELL. Senator Shelby.

ACCOUNTABILITY FOR APPROPRIATIONS

Senator SHELBY. Thank you, Mr. Chairman. I want to say, and I believe I speak for most people here, especially the ones that are not here, that we are not here to beat up on the IRS, but we are here as part of the appropriations process to see that this money is well-spent, that it is spent for the purpose it was intended because it is taxpayers' money. It is hard-earned money.

Secretary Summers, you know this. We all know that. The IRS is one of the most visible of the agencies of the Federal Government because it permeates all of us in the business world, individuals, in some way or form.

But what we are trying to do, I think, is to restore credibility and confidence in the Internal Revenue Service. We all, I suppose to some extent, fear the IRS because you are the implementator of the tax policy and you have a job to do at the IRS.

But at the same time, I think you have responsibility to spend the money that is appropriated to the agency very wisely, and I think it is a given. It goes without saying. I don't believe it is really arguable that so much of the money has been wasted. I think that has been acknowledged, basically. If it has not, it has certainly been highly newsworthy to everybody.

So how do we create accountability at the IRS for what we appropriate, and at the same time, create what the American taxpayer looks and hopes to have a level playing field in dealing with the IRS? Most taxpayers feel that when they are dealing with the IRS, most people, that they are in the ditch and the IRS is up on top of the bank and that they do not have a level playing field.

That is all part and parcel of the IRS and you know this. But we are troubled, and I know I am, I am troubled, from the committee standpoint, of money that we appropriate and it is not spent well. I realize that the IRS has a job to do in our form of government, but when we have the General Accounting Office report, when we have the Tax Commission, which we created, Mr. Chairman, report, highly, highly, Mr. Secretary, critical of the IRS and how they are spending money.

For example, the Clinger-Cohen Act—I am sure you are familiar with that—among other things, requires a support that our information technology investments, which we are talking about modernizing the IRS, be supported by accurate cost data and convincing, convincing, cost/benefit analysis. They are basically saying to us, as I understand it, that there is no rhyme or reason to a lot of the requests that you have done, that you have not complied with the Clinger-Cohen Act, and that you do not know how you plan to spend a lot of this money, basically that there is no justification to support billion-dollar information technology investments unless you know where you are going.

You see this. I mean, this was released today. That is troubling, not to me, but it is going to be really troubling to the American people because this is going to be disseminated nationwide in just a few hours, if it has not already been.

ACCOUNTABILITY FOR APPROPRIATIONS

So under the Clinger-Cohen Act, what we are trying to do there and the reason we passed that bill, which is an act today, was to support the agency where you need money, but let you justify the need and what you are going to do with it. And IRS is not the only agency, but it is the one before the committee today, that we think there has got to be accountability there.

Now, having said that, where do we go, Mr. Secretary? In other words, what are you doing at the IRS to bring in, if you are, some of the top management gurus of the Nation, of the world? You

know who they are, a lot of them. If you had a company the size of IRS, you have over 100,000 employees and that would be a large-size company, and you were having the kinds of management problems that you have in IRS, you would certainly bring in—you would roll some heads to begin with.

Somebody would be accountable, make no mistake about that, and more than likely, you would bring in outside management to say, "Gosh, what is wrong? What has gone wrong? What is wrong with the decisionmaking process here and where do we start today?"

Maybe you have gone somewhere in the last 2 years, but according to the General Accounting Office, according to the Commission, I do not see a lot of progress and I am troubled, as the American people are troubled. You are probably troubled, Mr. Secretary. I know it is a big bureaucracy. I know it is hard to do and it is hard probably, as the Senator from South Carolina said, it is probably—North Carolina—to fire somebody.

But in the private sector, heads would roll and there would be accountability. But there must be, must be accountability at the IRS for this kind of waste of the taxpayers' money. I know you have heard it before, but where do we go? Just in a few minutes, tell us. Where do you plan to go and how can you justify the expenditure in view of the Commission and the General Accounting Office saying, "Gosh, you have not justified it."

Mr. SUMMERS. Let me try to answer as best I can——

Senator SHELBY. Sure.

Mr. SUMMERS. Because I agree with a large part, a very large part, of what you said, Senator, and if I might do it by just going back to where we were a year ago?

Senator SHELBY. OK.

NEW LEADERSHIP FOR MODERNIZATION

Mr. SUMMERS. A year ago, we testified that this program was way off track. We said that we were going to bring in new leadership for the information technology function. The previous people who were involved with the modernization program are either no longer at the IRS or are not involved with the modernization program.

We brought in an outsider to the IRS, Mr. Gross, and vested him with all the responsibility as Chief Information Officer for the modernization program based on his proven record in doing this on the outside.

Senator SHELBY. In addition to Mr. Gross, did you let him bring a team in? That is important, too, and let Mr. Gross select a team because just bringing the top manager in is not going to do it if you are not going to give him the latitude to bring his team in. Go ahead, Mr. Gross.

Mr. GROSS. Mr. Senator, from my first day here on April 15, 1996, both Treasury and IRS top management have fully supported our efforts, and toward that end, we have just completed a recruitment process in which we will be appointing 13 new senior executive members to the information technology organization.

And each of those bring——

Senator SHELBY. Where are they coming from?

Mr. GROSS. Mostly from the private sector.

Senator SHELBY. OK.

Mr. GROSS. Some internal promotions of individuals who have performed very ably, but mostly from the private sector and from outside of the organization.

Senator SHELBY. How much latitude are they giving you at the IRS to do this? A lot, some?

Mr. GROSS. I have received the full support of the top management at both Treasury and IRS to effectuate these changes.

Senator SHELBY. Go ahead, Mr. Secretary.

Mr. SUMMERS. If I could say, we have tried to give Art the maximum latitude that we can. I think there are a number of things that we are going to have to look as one of the things that I included in my testimony in terms of flexibility. We need more scope to be able to pay bonuses. We need to be able to recruit people more quickly through less of a Civil Service process.

Senator SHELBY. Do you need legislation to do that?

Mr. SUMMERS. We will need legislation to do some of those things, although there are some things that can be done with executive branch approval. We look forward to, at the appropriate time—and there is a lot of overlap here, by the way, on this issue, between us and the IRS Commission to making some specific proposals as to what we can do.

Senator SHELBY. Mr. Gross, a year hence, let's say it is June, this is projection. It is the middle of June 1998, a year hence. Where do you expect to go, not hope to go? Where are the realistic measurements that you think you could come up with to change some of the problems in a year? A year is a long time.

YEAR 2000 DATE CONVERSION

Mr. GROSS. Year 2000 is a death march. It is the highest priority of our organization. We absolutely, by June 1998, need to be fairly well completed with our core business systems Y2K conversion. All of our metrics around Y2K conversion are targeted toward early completion of the conversion to leave 1999 as a year for integration testing and certification.

We also project that by June 1998, a year from now, we will have largely completed our preparations to begin modernization. We do not expect to be able to actually begin the modernization project, though, until at least October 1998 and that is because we still have much work to do on the ground in terms of best practice, and as Deputy Secretary Summers reported, we need to partner with the private sector.

This venture could not be undertaken by the IRS alone, regardless of how much capacity we have acquired, and that private sector set of contractors, we project, will not be available until likely October 1998.

JUSTIFICATION FOR EXPENDITURES

Senator SHELBY. How do you assure this committee, the Appropriations Committee over the IRS, in view of what the General Accounting Office has said, that you cannot justify, you do not have sufficient justification for these expenditures? What do you tell us,

as appropriators, and what assurances can you give us that you are going to do all these things despite what they are saying about it?

Mr. SUMMERS. May I give a short answer, Senator?

I think it is important. I think the first thing that I would want to emphasize is that—and I do not have the figures right before me—this program has been cut way back from where it was. The amount of money we are asking for amounts to spending at a rate of 25 or 30 percent.

Senator SHELBY. It is still a lot of money, isn't it?

Mr. SUMMERS. It still is a lot of money, but we have cut back. Mr. Gross, going through rigorous standards approved by our modernization management board, has cut back projects, some of which had been invested in not long before that a lot of people were very attached to but just do not make sense in light of current realities that would have spend-out of over $1 billion.

So the first thing to say is it is not that this train is still going in the way that it was before. It has been cut way back. Second, I have made the judgment, at least from the way I look at this, that it would be a mistake to cut back to zero, that there are a number of smaller projects that involve demonstrating capacity, that involve laying the groundwork for larger steps, that involve addressing the Y2K project, that make sense; they are all projects where progress can be monitored every few months and you can know whether this is working.

It is not, you know, we are working away and we will let you know 2 years from now whether it is going to work. I do not think we can afford that. And so, the——

Senator SHELBY. Don't you think the taxpayer deserves better?

Mr. SUMMERS. The taxpayers deserve much better than the taxpayers have gotten and that is why——

Senator SHELBY. Better than the IRS has given in the last several years, 5 years.

ACCOUNTABILITY FOR APPROPRIATIONS

Mr. SUMMERS. Better than it has given in this area, absolutely, and that is why we have made a major point of, in this area, the fact that projects have to be monitorable, we have to be able to see what the results are every few months so that we can ask questions if the projects are off-track.

We have also tried to look at some of the broad indicators of performance that matter for taxpayers. The phones are not being answered nearly well enough, but the rate at which they were answered was substantially higher in the last filing season than the previous filing season, and the IRS understands that there is an expectation and there will be accountability for their being answered in the next filing season than in the last.

Senator SHELBY. We have heard this before and I only hope that you come through because you are talking about a lot of money.

Mr. SUMMERS. Absolutely.

Senator SHELBY. A lot of it has gone down a rat hole. We hope you will close the rat hole, because if you do not, the American people are going to close it for you.

Mr. SUMMERS. Absolutely. Secretary Rubin and I, Senator, have said that we are prepared to accept accountability for this. I would

also just say to you that we spent an enormous amount of time working with a major private sector executive search firm on the location of a new Commissioner for the IRS and the individual who is now being vetted is someone who has enormous experience, precisely the kind you spoke about, as a guru, if you like, or as an expert in implementation of information technology solutions.

Senator SHELBY. Well, we will be hopeful. Thank you, Mr. Chairman.

Senator CAMPBELL. Thank you, Senator Shelby. I was interested in your comment that you may be giving bonuses. I would like to put that in a perspective before we leave the room. Congress, as you know, has denied itself even a cost-of-living increase for 4 years straight based on constituents' anger because they believe we need to improve our performance. You might apply the same logic when you are thinking of bonuses. Maybe they ought to be on future improved performance and not on the past performance because the past performance, according to the GAO and the commission, has not been all that good, as you know.

SUBMITTED QUESTIONS

Well, with that, this record will stay open for 2 weeks. We will submit a number of written questions by subcommittee members that we would appreciate if you would answer those in writing.

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

QUESTIONS SUBMITTED BY SENATOR CAMPBELL

GENERAL BUDGET ISSUES

1. According to out-year projections in the President's Budget, IRS' funding will remain virtually static between fiscal year 1998 and fiscal year 2002. (IRS' request is for $7.369 billion in fiscal year 1998; the Office of Management and Budget's projection for fiscal year 2002 is $7.308 billion). Because of the increasing cost of doing business, such static funding could lead to a significant cut in real dollars over the next five years.

Question. Has IRS done any long-range planning to assess the potential impact of static funding over the next five years? If so, what is the potential impact? If not, why not?

Answer. The IRS is doing long-range planning to assess the potential impact of static funding over the next five years. The IRS is also examining options for changing the way it does business and is reviewing its program priorities.

The IRS is a labor intensive organization (more than 70 percent of our total budget goes for labor costs) and it needs an increase of about $200 million annually to pay for employee cost of living adjustments and other inflation costs and at the same time continue maintaining its operations at approximately the same levels. For example, a "rollover" budget in fiscal year 1998—one that is at the same dollar level as fiscal year 1997—would not allow us to both fund the pay raise and maintain full-time-equivalent (FTE) levels. Instead, the IRS would need to reduce 4,000 FTE and this would impact levels of assistance and revenue collection. Looking at the budget over the next five years (fiscal year 1998 to fiscal year 2002), if the IRS receives each year approximately the same dollars as today, it would in effect be taking a $1 billion cut in "purchasing power." To pay for this reduction, the IRS would need to reduce its FTE by approximately 4,000 FTE per year for a total loss of FTE Servicewide of about 20,000.

This reduction would impact virtually all of the IRS' programs, but the need to protect Submission Processing and Customer Service means that the largest reductions would be in enforcement. Modernization offers the potential to increase productivity and reduce the impact of FTE reductions, but modernization investments need to be fully deployed before long term productivity benefits can be realized.

Question. In developing its fiscal year 1998 budget, IRS gave higher priority to enhancing customer service than maintaining face-to-face compliance programs, such as district office audits. Would IRS envision maintaining that prioritization under a static-budget scenario?

Answer. The Service continues to seek a reasonable balance between customer service operations and face-to-face enforcement activities. In the face of static—or even declining—out-year budgets, IRS will continue to build on the considerable progress made during the last two years to raise telephone access levels. However, future enhancements will rely, primarily, on technology-driven improvements (e.g., nationwide call routing), rather than major increases in FTE levels. With respect to revenue-based compliance programs, including district office audits, we recognize the need to shift from the traditional one-on-one enforcement approach to "wholesale," market-segment based treatments to address noncompliant behavior. While we a concerned about the long-term erosion of audit coverage rates, improved matching of information documents, up-front detection of compliance problem and "early intervention" efforts managed as a part of customer service all contribute to maintaining an effective enforcement presence. Assessing the relative contributions of better customer service (e.g., a five percent increase in the telephone access) and increased enforcement (e.g., a .05 percent increase in audit coverage or $800 million in additional revenue) represent real challenges in our efforts to maximize both total enforcement revenue and levels of voluntary compliance.

2. IRS is planning to downsize through a combination of buy-outs, attrition, and a reduction-in-force (RIF). Implementation of the RIF has been delayed to the point that, as of mid-February 1997, it was unclear just when the RIF would take place and how many staff would be affected. It is also unclear how, if at all, IRS' budget request reflects the cost and impact of IRS' downsizing efforts.

Question. Please provide a status report on IRS' downsizing efforts and the actual and planned impact on staffing levels.

Answer. Since May 1995, as a result of a series of reorganizations and downsizing efforts, the IRS has identified approximately 4,000 occupied positions for elimination. These positions have been primarily overhead, managerial, and support positions, and many of the savings have been diverted to front line compliance and customer service activities, primarily in the customer service call sites. The IRS has successfully placed 2,800 employees who formerly occupied non-continuing positions. There are currently approximately 900 occupied non-continuing positions in the field offices, and 300 in headquarters.

Question. Considering the current status of the downsizing efforts, what cost, if any, does IRS expect to incur in fiscal year 1998 to pay for such things as severance pay, outplacement and relocation?

Answer. The IRS estimates the cost to complete the Regional and District Management Consolidation (RDMC) and National Office downsizing will be $20 million. This cost includes opening a second buyout window, paying relocation expenses for interested employees, providing outplacement services to impacted employees, and paying severance pay to employees separated by a reduction-in-force (RIF). The vast majority of these costs will be incurred in fiscal year 1998.

In fiscal year 1998, buyouts may be extended to locations and functions not previously included in prior buyouts depending on the fiscal year 1998 budget and other restructuring needs. A ballpark estimate is that 1,200 buyouts may be offered. If these buyouts are used, we estimate they will cost about $30,300 per buyout. ($20,671 for buyout payment, $3,371 for lump sum leave, and $6,258 contribution to the retirement fund.) A total of 1,200 buyouts would therefore cost $36,360,000. This would result in $61,076,000 in annualized salary savings.

Question. What does IRS expect to save in the way of salaries and benefits?

Answer. The salary and benefit savings from the field office reduction is estimated at $30.7 million in fiscal year 1998, and thereafter, over $40 million annually, as is the savings from the National Office downsizing. Therefore, the overall savings from the downsizing currently underway is over $70 million in fiscal year 1998, and over $80 million annually thereafter.

Question. How are those costs and benefits reflected in IRS' fiscal year 1998 budget request?

Answer. The FTE level in the fiscal year 1998 President's Budget Request does not reflect any impact from the planned 1997 RIF, which is now delayed until the early months of fiscal year 1998. When the RIF occurs, FTE levels will be reduced and salary savings will be used to pay for the costs of the RIF, such as terminal leave and severance pay. The IRS intends to redirect the limited fiscal year 1998 savings and the more substantial savings in future years to front line operations.

Question. IRS' budget request shows a proposed operating level of 102,926 full-time equivalent staff (FTE's) in fiscal year 1997 and an estimate of 102,385 FTE's

in fiscal year 1998. Considering the current status of IRS' downsizing efforts, does IRS still expect to deliver 102,926 FTE's in 1997 and 102,385 in 1998?

Answer. Because there will not be a RIF in 1997, the fiscal year 1997 FTE levels are not expected to be significantly impacted. If a RIF occurs early in fiscal year 1998, then almost 1,200 fewer FTE will be realized in the affected activities. These FTE reductions will be offset by FTE increases in frontline operations.

Question. If not, what are IRS' current expectations and how would that affect IRS' funding request?

Answer. Our fiscal year 1998 Budget Request assumes full funding for pay raises. If funds for the pay raises are not provided, then FTE levels would drop 4,000 to 5,000 FTE.

3. Part of the Administration's proposal for helping the District of Columbia involves having IRS collect D.C. taxes. There is nothing in IRS' budget request relating to that additional responsibility.

Question. Is IRS working with the D.C. Government to develop policies and procedures for assuming this responsibility?

Answer. The IRS and D.C. Government officials have met weekly since June 4, 1997, to develop policies and procedures on assuming the responsibility for doing the compliance work on their individual income tax. The meetings are scheduled to continue at both the managerial and the technical level.

Question. What kind of administrative problems, if any, does the IRS foresee in assuming this responsibility?

Answer. There are a number of administrative problems that must be overcome to assume this responsibility, such as the need to:

—Change the regulations and Internal Revenue Manual to perform the necessary compliance work.

—Develop procedures to account for and forward taxes collected to D.C.

—Coordinate the exchange of taxpayer data on compliance cases.

—Redesign the D.C. individual income tax form(s).

—Design Examination and Collection reports to reflect compliance activity by the IRS functions.

—Provide customer service and taxpayer assistance to D.C. individual taxpayers when the IRS assumes responsibility.

—Develop training for D.C. and IRS employees to administer the new process.

The meetings held to date have revealed many technical and administrative problems and concerns. These are being documented and will be addressed by working groups. These working groups have members from both the IRS and the D.C. Office of Tax and Revenue (OTR).

Question. Has IRS developed preliminary estimates of how much it will cost annually, in FTE's and dollars, to collect D.C. taxes? If so, what are those estimates? If IRS expects to incur such costs in fiscal year 1998, how will they will be funded?

Answer. Yes, the preliminary estimates for the D.C. tax collection effort in fiscal year 1998 are $15 million and 151 FTE. These costs were not included in the IRS budget request for fiscal year 1998. If legislation is passed requiring IRS collection of D.C. taxes in fiscal year 1998, a request for supplemental funding would be required.

Question. Can Congress expect a request for additional funding?

Answer. If the above event occurs (legislation is passed), then Congress could expect a request for supplemental funding.

4. It is our understanding that IRS, in deciding how to allocate resources, considers customer service to be a higher priority than face-to-face compliance activities. While this prioritization should help to increase telephone accessibility and otherwise improve IRS' service to taxpayers, it will continue what has been a general decline in IRS' enforcement presence.

Question. In deciding on priorities, how does IRS balance the need to provide good service with the need to maximize revenue collection?

Answer. Our strategy emphasizes customer service to enhance voluntary compliance, as well as focused enforcement activity to collect revenue from non-compliant taxpayers. Compliance and Customer Service activities are complementary in reaching this goal. The major step in establishing Customer Service is combining service with the up-front compliance activities. There is a direct relationship between service and compliance as we reach more people, answer more calls and focus on up-front compliance activities.

Customer Service combines taxpayer assistance and taxpayer education activities with those compliance activities that do not require face-to-face contact. Providing assistance to the taxpayer who wants to comply with the tax law, with either tax law information or help with resolving a bill or a notice, results in collection of reve-

nue early in the process and lessens the need for the more costly and labor intensive face-to-face compliance provided by Examination and Collection personnel.

Question. How much does customer service contribute to improving compliance, and thus increasing revenues?

Answer. Estimating the impact of various IRS activities on voluntary compliance has been a very elusive goal. A number of studies—both within the IRS and within the academic community—have attempted to measure these effects over the years, but none has been definitive. The IRS' most recent effort was an econometric analysis of filing and reporting compliance over the 1982–1991 period which evaluated the impact of a number of enforcement and non-enforcement activities. This study found that three customer service activities significantly increase voluntary filing compliance well in excess of their cost. These activities are: the processing of third-party information documents pertaining to income or deductions; the issuance of nonfiler delinquency notices; and the preparation of taxpayer returns in IRS district offices.

Question. How does that compare to the impact of face-to-face compliance activities?

Answer. IRS' study estimated that two face-to-face enforcement activities also have a significant, positive impact on voluntary compliance. Both audits and convictions arising from criminal investigations were estimated to increase the voluntary compliance of the general population many times their cost. (Collection activities presumably have a similar impact, but the study did not focus on payment compliance.)

5. IRS' fiscal year 1998 budget estimates include numerous performance measures. Most of those measures seemingly focus on production or outputs (such as number of returns processed or dollars recommended per audit FTE rather than on outcomes, such as the impact on voluntary compliance.

Question. How does IRS plan to achieve its compliance and customer service goals without measures more oriented to outcomes?

Answer. In addition to continually working on improvements to performance measures, the IRS has initiated several strategies to increase compliance with the tax laws and improve customer service. These strategies are both measurable and link to our strategic objectives, and include:

Compliance Strategies

—Identify noncompliant taxpayer groups, test and then deploy treatments that directly address the underlying causes of their noncompliance with a preference for non-enforcement treatments.
—Protect revenue by identifying noncompliance up front, before return processing is completed and refunds are issued.
—Examine domestic and international tax returns, including those for employee plans and tax exempt organizations.
—Internationally, the IRS will continue to emphasize increased administrative enforcement efforts, modernized regulations, legislative change and coordination with trading partners and industry groups to foster compliance.
—Simplify tax returns, instructions, and publications.

Customer Service Strategies

—Minimize the need for taxpayers to contact the IRS for assistance by clarifying and reducing the numbers of notices issued, simplifying forms and instructions and analyzing the sources of demand for the IRS services.
—Offer multiple cost-effective means (e.g., telephone, correspondence, Internet) with expanded hours of operations for taxpayers to contact the IRS and receive a prompt, accurate resolution of their issue on the first contact.
—Use automated systems to effectively address taxpayers' needs without the need for a human tax assistor.
—Maximize service and the productive use of IRS resources by implementing improved network management systems, standardizing the operation of Customer Service sites nationwide and managing all workload at a corporate level.
—Provide the training, tools and automated systems necessary to allow the shifting of tax assistor resources to multiple types of cases to address shifting demand among different workload types and locations.

PROCESSING AND ASSISTANCE

IRS' fiscal year 1998 budget request includes $2.9 billion for Processing, Assistance, and Management. The following questions relate to three major program areas covered by that request—the processing of returns and remittances, customer service, and document matching.

PROCESSING OF RETURNS AND REMITTANCES

1. During March 14, 1996 apropriation hearings on IRS, the Deputy Secretary of the Treasury cited three priorities based on GAO's work on Tax Systems Modernization (TSM). One of those priorities was the need to reengineer IRS' submission processing system. Last year at this time, IRS had a project underway assessing options such a 1) eliminating classes of returns, 2) expanding the eligibility for filing simple forms, and 3) outsourcing the data capture function.

Question. What is the status of the reengineering project vis a vis the three areas cited above?

Answer. The Tax Settlement Reengineering Project was discontinued because it was duplicative of the work being done under the auspices of the Systems Life Cycle Process recently adopted by the Service. The SLC requires the reengineering of business processes prior to the application of technology solutions. Reengineering of the business process will occur as the Service develops the Level 3 and Level 4 business requirements in the areas of eliminating classes of returns and expanding eligibility for filing simple forms. Additionally, the joint IRS/NPR/Treasury task force looking at IRS Customer Service will include as one of its focus areas the filing and payment arena.

Question. What is the earliest that IRS could begin outsourcing the data capture function?

Answer. The May 15, 1997, Request for Comments for the Modernization Prime Systems Integration Services Contractor projects that outsourcing of the data capture function, if feasible, would commence in the form of a pilot, by January 1, 2000.

Question. How, if at all, are these reengineering efforts being used to identify system requirements for the new Distributed Input System, funding for which is included in IRS' Information Systems request for fiscal year 1998?

Answer. The Integrated Remittance and Submission Processing System (ISRP) formerly known as DIS/RPS Replacement, replaces two current systems, the Distributed Input System (DIS) and the Remittance Processing System (RPS). ISRP will "rollover" existing requirements of DIS but includes some reengineering to combine several existing work processes in the RPS. The replacement of the legacy DIS and RPS was necessitated by the fact that the existing systems are not, and cannot be made, Year 2000 compliant. In addition, the legacy DIS is 12 years old and the RPS is 19 years old, and both systems have become increasingly unreliable and costly to maintain. The ISRP System is a "Stay In Business" replacement of existing functionality, rather than a reengineering effort.

2. Despite the availability of alternative filing methods, like electronic filing, the large majority of returns are still filed in the traditional paper format and processed through a labor-intensive, error-prone keypunching operation. At one time, IRS' goal was to receive 80 million electronic returns a year by 2001. In 1996, however, only about 13 percent of the individual income tax returns were filed electronically, which includes those filed over the telephone (i.e., Tele-File).

In response to GAO's July 1995 report on TSM (GAO/AIMD–95–156, July 26, 1995), IRS said it would develop a comprehensive strategy for increasing the number of electronic returns. In its May 6, 1996 report to the Appropriations Committee on the status of TSM, Treasury said that a comprehensive electronic filing strategy would be in place by August 1996. That strategy has yet to be developed. On February 7, 1997, IRS sent the Chairman of the House Appropriations Subcommittee a document entitled "Critical Issues for the Development of an IRS Strategy for Electronic Tax Administration." After reviewing this paper, it is still unclear as to when IRS expects to have a comprehensive electronic filing strategy.

Question. Why has electronic filing not grown nearly as fast as IRS had expected when it set its 80 million goal? Was attainment of IRS' goal dependent on certain things happening that proved to be unrealistic? If so, please explain what those dependencies were and why they were not achieved.

Answer. The Electronic Filing Strategy Task Group Report (Rev. 5–93) was developed to produce one document to serve as the ELF Strategy, to identify new ways to attract taxpayers to the program, and to develop action plans to maximize the number of electronic returns. The report outlined 21 initiatives that, if all were implemented, would deliver 80.2 million electronic returns (69.8 Individual and 10.4 business) by the year 2001. Implementation of certain initiatives had a direct impact on the ability of the IRS to reach its goals. For example, one initiative required electronic transmission of returns from practitioners preparing 100 or more returns. The IRS is exploring other ways to expand electronic filing other than requiring mandatory electronic transmission of returns from practitioners. Another initiative was to allow the use of signature alternatives to eliminate the need for paper authentication. The IRS is still in the process of assessing the legal impact and assur-

ance of authentication of signature alternatives and continues to explore and test several methods.

Question. What is causing the delay in developing a comprehensive electronic filing strategy? When does IRS now expect to complete the strategy?

Answer. The IRS is issuing an RFP/RFI for comments from the Private Sector to help us determine what the requirements will look like. Concurrently, we have contracted with a market research contractor to research data and help define a market strategy. We plan to combine the results of the RFP/RFI with the market research analysis. From that the IRS should have enough data to develop as soon as possible a short term and long term strategy for electronic filing.

Question. How does IRS' plan to develop a strategy for increasing electronic filings mesh with its plan to assess the feasibility of outsourcing the processing of tax returns and other documents?

Answer. The Project Office for Submission Processing Outsourcing contract vehicle will be structured in such a way that the contract will reflect a decreasing volume of paper returns with the increase of electronically filed returns.

3. It would appear that IRS could improve the efficiency of its returns processing operation if it reduced the number of returns being filed and the amount of data included on filed returns.

Question. What, if anything, is IRS doing in either of those areas?

Answer. The IRS uses a comprehensive process to ensure that it asks only for information on the return that is needed to fulfill specific requirements of the tax law or for other tax administration purposes. For example, information is collected to: 1) verify many of the mathematical computations made on the return; 2) identify unreported income by comparing information on the return with documents provided by third parties; 3) identify overstated deductions, credits, etc.; 4) identify returns for audit; or 5) detect potential fraud.

Developing and revising forms involves coordination among multiple functional areas of the IRS (e.g., information systems, customer service, examination, etc.) to assure the quality and usefulness of the information collected. Annual reviews of the forms and instructions are conducted to identify opportunities for burden reduction as well as to ensure that the necessary data is being collected for effective tax administration.

The IRS has developed shorter, simpler versions of several forms for filers with simpler tax situations and less potential for noncompliance. For individual taxpayers, we developed Form 1040EZ, Schedule C-EZ (for sole proprietors), Form 2106-EZ (for employee business expenses) and Form 1040NR-EZ (for nonresident aliens). We have been able to increase the number of filers using the "EZ" forms by expanding eligibility. Since 1993, for the Form 1040EZ, we have added married filing joint taxpayers, unemployment compensation and a paid preparer line. We reduced taxpayer burden by more than 46.5 million hours. Over 28 million taxpayers can take advantage of the "EZ" forms.

Since 1991, millions of individual taxpayers have been eligible to file their Forms 1040EZ by telephone. This year almost 4.7 million TeleFile returns have been processed. Since January 1997, we have received 50,000 Forms 941 filed electronically as a test for employment tax returns.

For 1996, after reassessing their usefulness, several checkboxes and a line were eliminated from the Forms 1040 and 1040A. Since 1992 we have improved numerous forms and instructions and reduced taxpayer burden by over 94 million hours.

As the IRS takes advantage of the technologies which improve the processing of tax information, we will continue to assess the need for the information being collected.

Question. We understand that IRS inputs less than 40 percent of the data on a typical Form 1040 or a typical corporate tax return. If that is true, why does IRS need the other 60 percent? Couldn't some of that information be deleted from the return, with understanding that the taxpayer would be required to provide it if requested as part of an audit?

Answer. The IRS uses a comprehensive process to ensure that is asks for information on the return that is needed to fulfill specific requirements of the tax law or for other tax administration purposes. For example, information is collected to: 1) verify many of the mathematical computations made on the return; 2) identify unreported income by comparing information on the return with documents provided by third parties; 3) identify overstated deductions, credits, etc.; 4) identify returns for audit; or 5) detect potential fraud.

Annual reviews of the forms and instructions are conducted to identify opportunities for burden reduction as well as to ensure that the necessary data is being collected for effective tax administration. Developing and revising forms involves coordination among many functional areas of the IRS and Treasury, as well as exter-

nal input from tax practitioners, taxpayers and other professional organizations. We continually assess the usefulness of the information collected.

4. In its fiscal year 1996 and fiscal year 1997 budget requests combined, IRS asked for increases of 447 FTE's and 16.7 million for service center workload growth. In its fiscal year 1998 budget request, IRS is asking for another increase of 195 FTE's and $11 million for service center workload growth. According to its own projections, IRS expects to receive 200.1 million primary tax returns in 1998—an increase of 5.9 million over the number received in fiscal year 1995. Over the same time period, however, the number of returns filed through alternative methods (i.e., electronic filing, TeleFile, and 1040PC) is expected to increase by 13.7 million. It was always our understanding that returns filed through these alternative methods involve much less manual processing and are less costly to process.

Question. Considering the actual and projected growth in alternative filings, which are supposedly easier and less costly to process, why does IRS continue to request more staff to process returns? Given the increase in alternative filings, shouldn't IRS be able to process more returns with the same or less staff?

Answer. Each year, IRS processes more returns, per staff year expended, compared to the prior year, as a result of the growth in electronic filing, as well as other productivity gains. Nonetheless, the overall growth in all return filings, such as that expected for fiscal year 1998, typically outstretches IRS productivity gains, hence the request for additional FTE's for growth. A draft of the most recent IRS costing data available (i.e., for fiscal year 1996) shows that the cost of processing an individual electronic return is around 40 percent less than that for processing a paper individual return. Still, the processing of electronic returns requires IRS resources and involves more than just the receipt of return information. There are several processing costs, some that are unique to electronic filing, such as the processing of signature jurats (part of the "pipeline" processing cost), and other "downstream" processing costs that are essentially the same for electronic returns as for paper returns, such as making adjustments on taxpayer filed amended returns and resolving discrepancies over estimated tax payments. Further, more recent IRS projections of fiscal year 1998 growth, that take into account the more current economic outlook and actual return filings through the first part of 1997, now indicate even greater return growth for fiscal year 1998 than previously estimated (i.e., 3.4 million returns instead of 2.1 million), and with a large proportional share attributable to paper (i.e., 52 percent).

Question. Do these alternative methods really cost less? Per return, what does it cost IRS to process (a) electronic returns; (b) TeleFile returns, including telecommunication costs; paper returns filed on Form 1040 PC; (d) paper returns filed on Form 1040EZ; and (e) paper returns filed on Form 1040?

Answer. In general, alternative filing methods have a lower IRS processing cost compared to traditional paper returns. For example, based on the initial (draft) cost estimates derived from fiscal year 1996 experience, it costs around $3.91 in direct expenses to process a paper individual return compared to only $2.10 to process an electronically filed individual return. In addition, available IRS data indicate that processing Form 1040EZ returns costs about 20 percent less than the typical paper Form 1040 return, and the cost for the Form 1040PC is around ten percent less than Form 1040. However, better cost comparison data by form type are not readily available because of the need to allocate some common "downstream" processing costs and other administrative expenses across all form types and limitations in the available management information systems. At the present time, available IRS data also does not distinguish the cost between TeleFile versus standard electronic returns. The IRS is now carrying out a comprehensive cost review to provide more precise data on processing costs.

Question. Since returns filed via these alternative methods involve less errors (both by taxpayers in preparing the returns and IRS in processing them), is it fair to assume that these alternatives save IRS money in downstream costs (e.g. the cost associated with sending out error notices and responding to taxpayer calls and letters about those notices)? If so, could IRS please quantify those savings?

Answer. IRS information systems can not, at this time, precisely quantify the "downstream" processing cost savings from alternative filing methods. Alternative filing methods reduce certain errors, such as mistakes in taxpayer computations or IRS data entry errors, which, in turn, will reduce certain IRS downstream processing costs. However, existing management information systems do not capture detailed data on IRS adjustment activity associated with specific filing methods nor issues. In addition, some downstream processing costs are conceptually the same for electronic returns as for paper, such as responding to taxpayer filed amended returns, resolving discrepancies with withholding or estimated tax payment amounts or updating proper entity information. There are also other subsequent costs associ-

ated with collection and examination activities that are not reflected in the processing costs.

5. In its budget estimates for fiscal year 1998, IRS says that return projections for fiscal year 1997 are lower than anticipated, which will allow IRS to reprogram resources to enhance telephone accessibility.

Question. How did IRS use the reprogrammed resources to improve telephone service? Did IRS hire more staff to answer the telephone?

Answer. During the 1997 filing season, the IRS detailed Examination employees to Customer Service to respond to written technical inquiries and to call back taxpayers who left recorded messages on tax law questions. The IRS also shifted personnel from certain correspondence work to the telephone to take advantage of non-peak workloads for correspondence at a time when telephone workload was at a peak.

The Area Distribution Centers, which fill requests for tax forms, instructions and publications by telephone and through written requests, used staff savings generated by program changes, contracting of some work tasks, and additional automation efforts to increase hiring for the telephones. The IRS did bring on new hires in Customer Service to allow for more people to answer the toll-free lines.

Question. What are the chances that return filings in fiscal year 1998 will also be lower than anticipated? What is IRS' historical record in making such projections? Does it generally overestimate or underestimate filings?

Answer. As presented in the "FY 1998 Budget in Brief," IRS projected that 199.96 million primary returns would be filed in fiscal year 1998. Now, based on more recent return filing experience, as well as more current economic forecasts, it is most likely that actual fiscal year 1998 filings will be higher than that prior IRS forecast. From an historical perspective, comparable IRS forecasts over the past six years have had an average projection error of around two percent, which includes instances where IRS has underestimated actual filings and instances where IRS overestimated.

6. According to IRS' budget estimates for fiscal year 1998, the number of Federal Tax Deposits received electronically has risen much faster than expected over the past few years. IRS says that about 1.2 million more companies will be required to make electronic deposits in fiscal year 1997 and that even more companies can be expected in 1998.

Question. Given the significant increase in electronic payments and the resulting reduction in the need for IRS to manually process those payments, why don't we see a commensurate FTE reduction in IRS' budget request?

Answer. While staff year costs were reduced by the decrease of paper FTD coupons, the need for additional staff to provide telephone assistance to taxpayers attempting to use the EFTPS system for electronic payments offset the staff decrease. Electronic payments are convenient, and the system is easy to use. Taxpayers can use their telephone to make their payments if they choose.

The Electronic Federal Tax Payment System (EFTPS) became operational in November 1996. As of June 28, 1997, we have processed approximately five million transactions and collected over $155 billion through the system. Enrollees in EFTPS now total 1.6 million, of which 475,000 are volunteers.

7. For the past several years, IRS has been using lockboxes to process payments sent in by individuals when they file their income tax returns. Because of concerns about the burden associated with having taxpayers send their returns to one location (an IRS service center) and their payments to another location (a lockbox bank), IRS decided, for 1996, to have taxpayers send their returns and payments to the bank and to have the banks then sort the returns and ship them to the IRS for processing.

Question. In its report on the 1996 filing season (GAO/GGD–97–25, December 18, 1996), GAO said that IRS' data on burden was inconclusive and that IRS' decision to have taxpayers send not only their payments but also their tax returns to a Lockbox increased program costs in 1996 by about $4.7 million. These costs are paid by the Financial Management Service (FMS). The IRS will be following the same procedure in 1997, and the FMS will again be paying. How much will this procedure cost the Government in fiscal year 1997 and 1998?

Answer. Costs associated with Form 1040 returns received at lockboxes have not been determined for 1997. The $4.7 million increase referenced in the GAO report is the difference in the amount the government paid lockboxes for return handling in 1996 and the amount it would have cost if the returns were received at the service centers.

Question. Given the extra cost to the Government, why does IRS continue to have taxpayers send their tax returns to the Lockbox banks?

Answer. Based on information the IRS has received from tax practitioners and through focus group interviews, the IRS has decided that requiring taxpayers to mail their tax return separately to the IRS Service center and send the payment with voucher to the Lockbox bank would be burdensome for Form 1040 filers. Informal feedback received from practitioners indicated they would not be in favor of the IRS imposing the two envelope requirement on them.

During our focus group interviews, most participants were concerned about the additional postage required by the two envelope concept; however, they did not reject the concept. It is our intent to continue with the one envelope, two labels for the upcoming filing season. We will continue to examine this issue more closely to determine if there is a need for reconsideration.

8. Also in its report on the 1996 filing season, GAO noted that the number of fraudulent refunds identified by IRS in 1996 had declined significantly from the number identified in 1995 and that a major contributor to that decline was a sizable reduction in the staff assigned to the Questionable Refund Program (QR)—from 553 FTE in 1995 to 379 FTE in 1996. In its fiscal year 1998 budget request to Treasury, IRS asked for 244 more FTE's for this area; Treasury denied that request. In appealing Treasury's denial, IRS noted that, in addition to reducing the number of fraudulent refunds identified, the reduction in FTE's had also caused an underutilization of the Electronic Fraud Detection System (EFDS), in which IRS had invested in excess of $30 million.

Question. How many FTE's has IRS allocated to the QRP in fiscal year 1997, and how many does it expect to allocate in fiscal year 1998 if its budget request is approved?

Answer. Fiscal year 1997 QRP allocation—280 FTE's; fiscal year 1998 QRP allocation—280 FTE's.

Question. Is that level of staffing sufficient for IRS to adequately identify and investigate Questionable Refund Schemes? If not, what are the negative consequences and how will IRS be able to effectively control against filing fraud? If the level of staffing is sufficient, why did IRS seek more staffing in the budget request it submitted to Treasury?

Answer. Additional staffing will allow the QRDT to review and analyze additional returns seeking new patterns of fraud and abuse. Without additional staffing, the QRDT will be reviewing returns that meet a pattern of fraud identified in prior years.

Question. To what extent is EFDS being underutilized? For example, how many terminals did IRS buy as part of EFDS?

Answer. The total number of EFDS terminals is 628 based on fiscal year 1995 QRP staffing of 408 FTE's. Underutilization of the EFDS is attributed to staffing cuts in fiscal year 1996 and fiscal year 1997.

Question. How many were used in 1996 and are being used in 1997 for the purpose intended (i.e. to help QRP staff identify fraudulent returns and refunds)?

Answer. Because of the reduction in QRP staffing, as well as the strategic goal of EFDS becoming a multi-functional asset, terminals were made available to Examination for other Revenue Protection Initiatives implemented during the 1997 Filing Season. We are currently discussing a broader expansion to Examination for the 1998 Filing Season. Additionally, we are partnering with the District Office Research & Analysis (DORA) sites who will be using EFDS to research ways to improve detection of fraudulent refund schemes. Also, tests are being conducted in the Houston District and soon in the Philadelphia District for utilization of EFDS in the District Office, Criminal Investigation.

CUSTOMER SERVICE

1. IRS developed a "Customer Service Vision" to guide its efforts in improving service to taxpayers. The vision includes consolidating several parts of IRS' field organization into 23 customer service centers; providing customer service representatives with computer resources, training, and authority to enable them to resolve 95 percent of taxpayer issues during a single phone conversation; moving correspondence work to the telephone; and using automated applications to answer 45 percent of taxpayer's incoming calls.

In October, 1995, GAO reported that IRS had made progress toward its customer service vision, but that the transition would last beyond the original goal of full operation in 2001 (GAO/GGD–96–3, Oct. 10, 1995). Also in January, 1997, GAO reported that the promise of the vision was not likely to be fulfilled unless IRS made changes in the development and deployment of the integrated Case Processing (ICP) system, one of the primary information systems being developed to aid employees when taxpayers call for assistance (GAO/GGD–97–31, Jan. 17, 1997).

Question. What is the status of the field consolidation?

Answer. Beginning in 1992, the IRS conducted a series of studies to fundamentally improve how it accomplished its mission. The studies resulted in decisions to make some major realignments in field office structure. These realignments were designed to: reduce management and overhead positions and redirect those resources to front line customer service and compliance programs; consolidate and improve our customer service telephone operations, and; centralize administrative and support responsibilities as much as possible.

The realignments reduced the number of the IRS regional offices from seven to four; the number of districts from 63 to 33 and the number of customer service telephone sites from 70 to 23. The realignments were designed to take place in stages. First, during fiscal year 1994, the regional offices were consolidated. Executive and managerial personnel from the three discontinued regions were redeployed and their responsibilities assumed by the four remaining regions. The four region configuration became operational on October 1, 1995. Throughout fiscal year 1995 the district offices designed and began to execute their transition plans in partnership with the National Treasury Employees Union (NTEU). On October 1, 1996, the IRS began operating with 33 districts. The vast majority of the executive and senior management personnel from the 30 non-continuing districts either left through retirement or transferred to continuing management positions during fiscal year 1995. In some cases managers chose to assume a technical position. At this point there was only minor redeployment impact on bargaining unit personnel and these actions were governed by negotiated agreement. At that time, it was acknowledged by both NTEU and IRS that there would be an impact on the employees in the compliance support operations. However, an agreement was reached which allowed the paraprofessional and administrative personnel to remain in their positions until September 30, 1996, unless they voluntarily left sooner.

In October 1995, Congress failed to renew the IRS' compliance initiative. As a result, the IRS had more than 5,000 new compliance employees for which there was no funding. To address this situation, the IRS instituted a Servicewide hiring freeze (except for service center filing season hiring), severely curtailed training and travel, and sought other ways to fund these positions, such as a Servicewide furlough. One of the other areas examined was the field reorganization, to determine whether there was a way to achieve additional savings and to speed up the pace at which those savings would be realized.

In April 1996, the Organizational Impact Analysis report was issued, which called for the elimination of several thousand additional positions, and an immediate consolidation of the compliance support units, and other overhead functions. Because the IRS no longer had the benefit of the compliance initiative, it was no longer feasible to finalize the reorganization solely through voluntary methods and attrition. NTEU was officially notified about the IRS' need to conduct a RIF. Negotiations began in August 1996, and the IRS and NTEU are currently at an impasse before the Federal Service Impasses Panel.

To date, the IRS has placed through voluntary means approximately 2,300 field employees, including 935 who accepted buyouts. There are currently slightly fewer than 900 occupied, non-continuing positions in IRS field offices.

Question. Does IRS still plan to have 23 customer service centers?

Answer. Yes, see Attachment 1.

[The information follows:]

ATTACHMENT 1

RECONCILIATION OF IRS 70 TELEPHONE SITES TO 23

11Sites Closed 6 TPS 5 ACS	Closing Date	19 Sites to be Closed 12 TPS 7 ACS	Closing Date	10 Sites Consolidating Phone Operations & Staying Open * 10 TPS 10 ACS	5 Sites without need to Consolidate & Staying Open** 4 TPS 1 ACS	10 Service Centers staying open*** 10 SC	5 Non-Customer Service Telephone Operations 3 CIDS 2 CC
Anchorage TPS	9/94	Atlanta ACS	10/00	Seattle	Portland	Andover	Bloomington CIDS
Brooklyn TPS	10/94	Atlanta TPS	10/99	Denver	Pittsburgh	Atlanta	Sacramento CIDS
El Monte TPS	9/94	Boston ACS	10/01	Dallas	Richmond	Austin	Richmond CIDS
Honolulu TPS	9/94	Boston TPS	10/99	St. Louis	Puerto Rico TPS	Brookhaven	Martinsburg CC
Laguna ACS	9/95	Chicago ACS	10/96	Indianapolis	Puerto Rico ACS	Cincinnati	Detroit CC
Manhattan ACS	10/94	Chicago TPS	10/97	Cleveland		Fresno	
Newark TPS	8/94	Cincinnati TPS	10/99	Nashville		Kansas City	
Newark ACS	9/96	Des Moines TPS	10/97	Jacksonville		Memphis	
Okla. City ACS	5/95	Detroit ACS	10/98	Buffalo		Ogden	
Phoenix TPS	9/96	Detroit TPS	10/96	Baltimore		Philadelphia	
Kearney Mesa ACS	9/95	Houston ACS	1/97				
		Houston TPS	10/98				
		Milwaukee TPS	10/97				
		Oakland ACS	10/01				
		Oakland TPS	10/00				
		Omaha TPS	10/97				
		Phila. ACS	10/97				
		Phila. TPS	10/99				
		St. Paul TPS	10/97				

*	CONSOLIDATED SITES (FORMER DISTRICT OFFICE)		10
**	NONCONSOLIDATED SITES (FORMER DISTRICT OFFICE)	5	
	LESS: PUERTO RICO TPS & ACS	-2	3
***	SERVICE CENTERS		10
	TOTAL		**23**

In addition to the 23 sites above, it is anticipated that the 3 CIDS sites and limited telephone operation in the 2 computing centers will continue.

Question. Please identify those centers in operation and provide the schedule for implementing the others.

Answer. See Attachment 1.

Question. Please provide an overview of a typical center's workload, work processes, staffing, equipment, etc.

Answer. A typical Customer Service center's workload and work processes include:

—account and refund inquiries on toll-free lines

—responding to taxpayer correspondence such as notices, requests for adjustments

—reviewing and processing amended returns

—accounts receivable work and preparation of installment agreements

—preparing proposed adjustments to tax returns based on matching of third party documents and simple audits not requiring face-to-face interaction with taxpayers

The typical front-line Customer Service employee is titled "Customer Service Representative" at the pay level of GS–07, beginning at $28,400 per year. Each employee has a computer terminal that provides access to taxpayer account information as well as various research databases.

Question. Please identify those offices and units that have been closed or consolidated with the 23 centers and provide the schedule for closing or consolidating the remaining offices and units.

Answer. See Attachment 1.

Question. What changes has IRS made in developing and deploying ICP?

Based on the results of reviews done by internal and external offices (GAO and the Illinois Institute of Technology Research Institute), on February 3, 1997, the Associate Commissioner/Chief Information Officer presented the ICP 2.0 Project Disposition Review to the Investment Review Board (IRB), recommending an immediate and orderly shutdown of the ICP 2.0 systems development effort. The IRB concurred with this recommendation. Further roll out of these requirements will be in accordance with the Modernization Blueprint and Sequencing Plan.

Question. How have the problems with ICP affected IRS' ability to implement its customer service vision?

Answer. Although further development of ICP to allow for on-line update capability has been terminated, an earlier release of ICP (ICP 1.5), which provides employees with the ability to carry out research in several stand alone data bases from a single terminal, remains operational supporting the customer service vision and facilitating the work of 3,000 users nationwide. ICP 1.5 will continue to provide access to IRS databases of taxpayer information, simplified account analysis and account actions through universal workstations in a graphical environment. Resources will be committed to produce the appropriate life cycle documentation and system maintenance.

Question. What are the future plans for ICP?

Answer. After conducting a review of the Integrated Case Processing (ICP) development efforts, the Associate Commissioner for Modernization/Chief Information Officer recommended that ICP development, beyond the maintenance of Release 1.5, be halted. The Investment Review Board (IRB) concurred with this recommendation on February 24, 1997. Plans are being developed by the Deputy CIO for Systems Development for the reallocation of equipment and other resources (e.g., reassignment of staff to Year 2000 date conversion). In the long run, the functional requirements that ICP was designed to meet will be addressed.

Question. How much has IRS spent on ICP? Please provide an overview of future funding for ICP, by fiscal year and type of expenditure.

Answer. The IRS will have spent $176 million on ICP through the end of fiscal year 1997. This includes $34 million spent on ICP Release 2.0, which was terminated by the Investment Review Board on February 24, 1997. The balance of the funds has been used on earlier releases, which have been deployed. Maintenance for ICP Release 1.5, which has been deployed to 3,000 workstations at 14 sites to provide customer service representatives with single terminal and direct access to the major legacy systems, will continue until ICP is replaced in Phase I of the Modernization Sequencing Plan. ICP functionality has been incorporated in the Modernization Blueprint. Funding requirements for this functionality have not been identified. Modernized Phase I Business Cases are due 10/97.

Projected funding needs for ICP Release 1.5, which include Customer Service operational costs (e.g., telecommunication, systems administrators), are:

[Dollars in millions]

ICP 1.5 expenditures	Fiscal year—	
	1998	1999
Labor	$2.2	$2.2
ADP Equipment (including COTS)	0.2	0.1
Other (e.g., travel, supplies, training, awards)	.1	.8
Total	2.5	3.1

Question. Please provide similar information for other automated systems, such as Telephone Routing Interactive System, Automated Tax Law, and Predictive Dialer, that are being developed or implemented to aid IRS in assisting taxpayers.

Answer. The IRS has spent $36 million on the Telephone Routing Interactive System (TRIS). TRIS development is terminated with Release 2.5, which is scheduled to be completely rolled out in 23 customer service sites in early 1998. Maintenance for TRIS 2.5 will continue until the TRIS-like functionality that has been identified in the Modernization Blueprint is implemented on the new target architecture. While the President's Budget included a request for $500,000, revised future funding needs to complete roll out and maintain Release 2.5 are:

[Dollars in thousands]

TRIS 2.5 expenditures	Fiscal year—	
	1998	1999
Labor	$2,863	$452
ADP equipment and services (including COTS products)	6,606	4,655
Other (e.g., travel, supplies, training, awards)	150	197
Total	9,619	5,304

The IRS has spent $23 million on Automated Tax Law (ATL). The ATL exists only on the Internet. The Investment Review Board deactivated the project office activities on March 3, 1997. All development of ATL telephonic applications will take place under Modernization.

The IRS has spent $5 million on the Predictive Dialer initiative. The Predictive Dialer exists in the legacy systems as a test system in Buffalo, New York and two aging telecomputers in Austin and Atlanta which provide limited automated outcall capabilities for Collection ACS only. Development and deployment of corporate predictive dialer functionality will be done under Modernization as part of the Regional Communications Services components. Future funding requirements for legacy maintenance are:

[Dollars in millions]

Predictive dialer expenditures	Fiscal year—	
	1998	1999
Labor	.....	.....
ADP equipment and services (including COTS products)	$1,425	$1,425
Other (e.g., travel, supplies, training, awards)	75	75
Total	1,500	1,500

Question. In implementing the customer service vision, how has the work, authority and training of telephone assistors changed?

Answer. Formerly, Taxpayer Service representatives were not given the authority to complete certain compliance procedures, such as initiating certain installment payment agreements. ACS representatives did not have the authority to perform certain account adjustments, such as penalty abatements. As Compliance and Taxpayer Service work processes are blended at sites nationwide, authority for resolving account issues and making account adjustments while a taxpayer is on the telephone have been standardized for all Customer Service assistors, ensuring consistency between similar programs in different locations.

Questions. Is resolving taxpayers' issues 95 percent of the time during a single telephone conversation still an IRS goal? When does IRS expect to reach that goal?

Answer. Implementing our goal of resolving taxpayer issues 95 percent of the time in the initial contact [1] was predicated on the assumption that full integration of legacy systems would occur. Additionally, we have revised our initial contact resolution measure by including quality as a component.

Question. What are the goals for fiscal year 1997 and 1998 and what rate has IRS achieved so far in fiscal year 1997?

Answer. The corporate goal for fiscal year 1997 is 75 percent for initial contact resolution. To date, the IRS has achieved a 79.5 percent initial contact resolution rate for fiscal year 1997. fiscal year 1998 goals will be formulated using baseline data gathered during 1997.

Question. What has IRS done to encourage taxpayers to use the telephone instead of corresponding with IRS?

Answer. IRS has taken the following actions to encourage taxpayers to call rather than writing to the Service:

[1] Clarification: "Initial contact resolution" should not be equated with "resolving taxpayers issues during a single telephone conversation". Initial contact resolution means that the taxpayer will contact IRS one time a single time and all issues will be resolved without further action from the taxpayer.

(1) Improved access by standardizing extended hours of service; provided service on three Sundays during the filing season; provided service on the final weekend of the filing season and extended hours on the last two days of the filing season; put more employees on the phone; and detailed compliance personnel to Customer Service to answer complex questions.

(2) Established four toll-free telephone numbers to speak with an assistor, access an interactive system, or listen to taped information on tax law or account questions. Our toll-free numbers are advertised locally, included in IRS tax forms and publications, and provided on notices or correspondence issued by the Service.

(3) Implemented systems that provide assistors access to nationwide databases and allow account adjustments while the taxpayer is on the telephone, regardless of the geographic location of the taxpayer. Oral testimony authorities have been expanded, allowing assistors to resolve more issues while the taxpayer is on the phone. Also, taxpayers may expedite certain transactions by faxing their authorizing signature to an assistor.

(4) Identified and redesigned notices. References to writing a letter have been deleted from all notices and a 1–800 number has been referenced for taxpayer use. Return envelopes, formerly enclosed with each notice, are no longer provided unless payment is requested from the taxpayer.

Question. Has the decline in correspondence been consistent with the increase in telephone usage?

Answer. We do not have valid statistics on this issue.

Question. On average, how much does IRS save when taxpayers call rather than write?

Answer. Cost comparisons are not available on all transactions at this time. However, telephone transactions result in less burden and less cost for the taxpayer than written inquiries. When taxpayers call rather than write it generally results in early resolution of issue. When issues are resolved early, the need for follow up or repeat contacts is lessened or eliminated.

Question. What is the basis for IRS' goal of using automation to answer 45 percent of taxpayers' incoming calls?

Answer. The long -range vision for Customer Service included the goal of answering 45 percent of taxpayer incoming calls through automation by the Year 2000, through technological improvements and increased oral authority to resolve questions by telephone. Customer Service has already exceeded this goal.

Question. What has been IRS' experience over the last 3 years, and what are IRS' goals for the future?

Answer. We expect our Tele-Tax system to provide service to more than 47 million taxpayers in fiscal year 1997. Our Tele-Tax system provided service to 29 million in fiscal year 1994, 51.3 million in fiscal year 1995, and 45.3 million in fiscal year 1996.

Question. What are IRS' plans for expanding these services?

Answer. We are purchasing new Tele-Tax equipment to replace older equipment that was subject to potentially significant down time. This will save approximately $300,000 in annual maintenance costs and will allow us to answer 6 million additional calls. Also, we are rolling out TRIS 2.5 that will provide additional automated and interactive applications.

2. IRS' fiscal year 1998 budget request includes a new activity called "Telephone and Correspondence," which includes much of what was in the old Taxpayer Services activity plus various non face-to-face compliance activities, such as those conducted by the Automated Collection System (ACS) sites and the Service Center Collection Branches. It is unclear how staffing will be allocated among the various areas within the Telephone and Correspondence activity. Also, the performance measures for the collection components of the Telephone and Correspondence activity are by FTE (such as "ACS dollars collected per FTE") and do not show the total collections expected from each of these collection components.

Question. Please provide a breakdown of the 20,815 FTE's requested for the Telephone and Correspondence activity by the specific components within that activity. Also, please provide information on the total collection goals for each of the collection components in this budget activity.

Answer.

	FTE
Problem Resolution Program	438
Toll Free Operations	6,459
Adjustments/Taxpayer Relations	4,722
Service Center Collection Branch	2,844
Automated Collection System	2,839

	FTE
Service Center Examination	3,473
Total	20,815

IRS Performance Measures for fiscal year 1998 for Automated Collection System (ACS): ACS Dollars Collected per FTE (in millions) target is $1.4.

3. As part of the requirements of the Government Performance and Results Act of 1993, federal agencies are developing strategic plans that are intended to be the starting point for each agency's performance measurement efforts. The strategic plans are to include a mission statement, outcome-related goals, and a description of how the agency intends to achieve these goals. IRS has developed three strategic goals: increase compliance, improve customer service, and increase productivity. IRS' fiscal year 1997 and fiscal year 1998 performance plans for the Telephone and Correspondence budget activity include customer service and productivity measures.

Question. Does IRS measure the extent to which telephone and correspondence service affect taxpayer compliance? If not, why not?

Answer. Estimating the impact of various IRS activities on voluntary compliance has been a very elusive goal. A number of studies—both within IRS and within the academic community—have attempted to measure these effects over the years, but none has been definitive. IRS's most recent effort, an econometric analysis of filing and reporting compliance over the 1982–1991 period, found no evidence that telephone assistance and correspondence service have any significant impact on the voluntary compliance of the general population. These results are consistent with the findings of an earlier study. That study found that taxpayer assistance improved the accuracy of returns, but also found that the revenue effect was neutral because the errors prevented by the assistance included fairly equal amounts of overstatements and understatements of liabilities. IRS is continuing to study these issues using additional and more recent data.

Question. If so, when compared to an investment in enforcement, does an investment in these services have a greater or lesser effect on taxpayer compliance?

Answer. Our customers, just like any other business—demand these services (correspondence, telephone, etc.); thus, the decision to invest resources into these activities is not based on return on investment, but on meeting our customers' needs.

Question. How does IRS measure what taxpayers think of these services?

Answer. IRS has used qualitative techniques such as focus group interviews and surveys to measure what taxpayers think of our telephone and correspondence services. A list of our more recent data gathering activities includes the following:

—1993 Value Tracking Focus Group Report (This report is based on extensive focus group interviews exploring the perceptions taxpayers and small business owners have of the IRS and the services it provides.)

—1993 Notice Clarity Focus Group Report (This study examined taxpayers reactions to a redesigned notice by comparing the new format to the current version)

—1996 Notice Redesign Focus Group Report (These interviews obtained taxpayer feedback on newly redesigned notices.)

—1995 IRS Customer Satisfaction Survey for Individuals -Final Report (The survey obtains data on the perceptions of adult U.S. residents regarding the quality of IRS service.)

In fiscal year 1998, the IRS is planning a number of customer surveys, focus groups, and other vehicles to solicit customer feedback on its major products and services. These feedback mechanisms will allow the IRS to prioritize resources, develop new customer service measures by Business Lines, and measure district and service center level performance as it relates to customer satisfaction. Focus group interviews have been used in designing new customer service products such as the Automated Tax Law (ATL) application. Survey questions included at the end of Telephone Routing Interactive System (TRIS) scripts are used to obtain customer feedback. Management information collected by our systems indicates trends in taxpayer inquiries and taxpayer responses to our automated and interactive scripts. All such data is reviewed and applied to refine our customer service products. Also, the IRS has, and continues, to participate in the National Performance Review, conducting "best practice" interviews with industry leaders in customer service and applying the results to our products.

Question. What has IRS learned?

Answer. Some of the notable lessons learned from these reports are as follows.

—IRS efforts to improve notices are having a positive effect. Tests of the revised math error notice indicated that taxpayers felt the new notice was easy to understand, and that the format and tone of the notice were appropriate. Tax-

payer behavior also indicates that when notice language and format is clear and brief, the IRS receives fewer notice inquiries.

—Survey and focus group results indicated that taxpayers expect the IRS to respond to their account inquiries like other major financial institutions. They want complete and current account information from the first IRS employee with whom they speak. They wish to be treated with courtesy and professionalism. Small business taxpayers especially, feel that IRS hours of operation need to be expanded to better service their needs.

Question. And what actions has IRS taken in response?

Answer. Customer Service has used customer feedback in developing and enhancing scripts for Automated Tax Law (ATL) and Telephone Routing Interactive System (TRIS) applications by conducting focus groups. We have also hired a consultant to make our systems more user friendly. While we recognize that many opportunities to improve our service still remain, we are proud of several recent accomplishments. The IRS conducted a comprehensive review of its notices to taxpayers and eliminated some notices while redesigning others. The redesigned notices for earned income tax credit, refund, balance due and estimated tax were favorably received by taxpayers in focus group interviews. Taxpayers generally described the redesigned notices as friendlier, easier on the eye, and more "people" oriented.

Based on information regarding telephone service to taxpayers, the IRS has undertaken a nationwide program, the Performance Data System, to assess and train customer service representatives. Training will be conducted in areas of customer service such as interpersonal sensitivity, negotiating, oral communications and listening skills. Preliminary data show the training to be effective in significantly improving the quality of telephone service provided by IRS customer service representatives. A follow-up test will be administered in 1998 to determine if long term benefits resulted from the training.

We anticipate additional study and process improvements in the arena of telephone access and correspondence service.

4. An administrative provision in the fiscal year 1997 appropriation act said that funds provided for IRS shall be used to provide "as a minimum, the fiscal year 1995 level of service, staffing, and funding for Taxpayer Services." Another provision said that IRS may proceed with its field support reorganization in fiscal year 1997 only if it "maintains in fiscal year 1997, the current level of taxpayer service employees that work on cases generated through walk in visits and telephone calls to IRS offices."

Question. Please explain, in detail, what IRS is doing to satisfy these provisions.

Answer. In fiscal year 1997, the IRS has substantially increased the level of service provided to taxpayers through telephone, correspondence and walk-in assistance programs. In total, we expect to assist 116 million taxpayers. Much of the increase is attributable to improvements in the level of access to telephone assistance, which has increased from 39 percent in fiscal year 1995 to nearly 70 percent in fiscal year 1997 (as of 5/97).

Question. How is IRS interpreting these provisions? For example, is it IRS' belief that it must maintain, as a minimum, the same level of staffing and service as in fiscal year 1995 for each element of taxpayer service (e.g., walk-ins and telephone) or just for taxpayer service overall (with the freedom to reduce walk-in service and increase telephone service)?

Answer. IRS has made every effort to conform to both the letter and the spirit of the Conference Report language. We submitted on March 27, 1997, a report to the Appropriations Committees on the impact of our field support reorganization on taxpayer service programs. Our interpretation is this restriction should be applied for "overall" taxpayer service.

A copy of the "Report on the Internal Revenue Service Field Support Reorganization has been provided as Attachment 2.

[The information follows:]

ATTACHMENT 2

REPORT ON THE INTERNAL REVENUE SERVICE FIELD SUPPORT REORGANIZATION

INTRODUCTION

This report is prepared to meet the requirement of Public Law 104–208, which funded the Internal Revenue Service for fiscal year 1997. An appendix is included which defines the technical terms used throughout the report.

Section 105 of the IRS Administrative Provisions in the Treasury Department Appropriations Act, enacted in Public Law 104–208 states, "The Internal Revenue Service (IRS) may proceed with its field support reorganization in fiscal year 1997

after it submits its report, no earlier than March 1, 1997, to the Committees on Appropriations of the House and Senate only if the IRS maintains, in fiscal year 1997, the current level of taxpayer service employees that work on cases generated through walk in-visits and telephone calls to IRS offices." [1]

The Joint Explanatory Statement in Conference Report 10463 states, at page 1155, in reference to section 105: "The conferees direct the IRS to report to the House and Senate Committees on Appropriations no earlier than March 1, 1997, on the impact of the reorganization with respect to: (1) taxpayer services, particularly taxpayer education and walk-in customer service offices; (2) problem resolution cases; and (3) the overall cost/benefit of the proposed restructuring. This report should also address how IRS taxpayer services will ensure adequate service to taxpayers in the future."

The reorganization has not and will not adversely impact service to taxpayers or the Problem Resolution Program. In fact, the IRS believes that completing the field reorganization will result in better service since resources will be redirected to customer service and compliance programs.

BACKGROUND

Beginning in 1992, a series of studies were conducted to fundamentally improve how IRS accomplished its mission. The studies resulted in decisions to make some major realignments in the field office structure. These realignments were designed to: reduce management and overhead positions and redirect those resources to front line customer service and compliance programs; consolidate and improve customer service telephone operations, and; centralize administrative and support responsibilities as much as possible.

The realignments reduce the number of IRS regional offices from seven to four; the number of districts from 63 to 33 and the number of customer service telephone sites from 70 to 23. The realignments were designed to take place in stages. First, during fiscal year 1995, the regional offices were consolidated. Executive and managerial personnel from the three discontinued regions were redeployed and their responsibilities assumed by the four remaining regions. The four region configuration became operational on October 1, 1995. Throughout fiscal year 1995 and early fiscal year 1996, the district of flees designed and began to execute their transition plans in partnership with the National Treasury Employees Union (NTEU). On October 1, 1996, the IRS began operating with 33 districts. The majority of the executive and senior management personnel from the 30 non-continuing district offices either retired or transferred to continuing management positions during fiscal year 1995. In some cases managers chose to assume a technical position. At this point the minor redeployment impact on bargaining unit personnel was governed by negotiated agreement.

Because of the Congressional approval of a five-year revenue initiative in the fiscal year 1995 budget which funded over 6,000 compliance full time equivalents (FTE), an assumption underlying all these actions was that the resources saved through consolidation would be redirected and invested in the core business of customer service and compliance, not that, even when jobs were being eliminated, IRS would significantly reduce overall staffing levels. The revenue initiative allowed the IRS and NTEU to join in formulating a series of redeployment strategies and transition plans designed to capitalize on the experience of the work force and ensure continued employment. The plans assumed a gradual transition which would allow for attrition and voluntary job movement to adjust necessary staffing levels between the continuing and non-continuing offices.

This revenue initiative was discontinued after one year, which meant that 6,000 FTE were no longer funded, and thus the positions into which employees affected by the reorganization could be placed were no longer available. As a result, the IRS could no longer plan to complete the field restructuring over the period of time originally envisioned.

As discussed later under the section, "Costs and Benefits of Reorganization," the IRS will achieve significant savings over five years which will help the IRS absorb the unfunded cost increases that will result from the flat budgets proposed for the Service through the year 2002. For example, the savings will be used to fund essential compliance support employees, to improve taxpayer access to the toll-free cus-

[1] As discussed with the Majority Staff Director of the Senate Appropriations Subcommittee, at the time of the Bill, the word "cases" refers to Problem Resolution Program cases generated either through walk-in activity or local telephone contact, but does not refer to calls received via the "1–800" number.

tomer service telephone program and to expand employee opportunities for advanced technical training.

EFFECT OF REORGANIZING ON CUSTOMER SERVICE

The Joint Explanatory Statement of the Committee of Conference, at page 1154, in reference to section 103 states, "The conference agreement includes a provision which requires the IRS to maintain the fiscal year 1995 level of service, staging, and funding for Taxpayer services. The conferees agree that this does not mean that IRS should be required to rehire staff or to open closed offices. The intent of the provision is to *ensure* that, overall, IRS maintains a level of Taxpayer Services which meets or exceeds the 1995 level of services. Additionally, the IRS should be very sensitive to the needs of taxpayers who use walk-in service centers during the tax filing season." [Italic added for emphasis.]

The IRS has continuously committed to Members of Congress that the consolidation of compliance support organizations would not diminish service to taxpayers. In fact, the realignments proposed for field of rices, including the customer service sites, together with ongoing program improvements, will improve the Service's ability to deliver effective and timely service to greater numbers of taxpayers.

Systems and telecommunications improvements now afford the IRS the ability to handle taxpayer inquiries regardless of their geographic location. This has opened up tremendous opportunities to establish centralized, well equipped call sites, staffed with well trained assistors, which will offer expanded hours of operation. If supported by resources partially redirected from field reorganization savings, these opportunities can be fully realized, bringing cost benefits to the IRS through reduction of overhead and facilities costs, but also bringing service benefits to the taxpayer through better access and the quality of answers.

Customer service in the IRS now takes many forms. Today, taxpayers can get help in a number of ways: electronically through the IRS Homepage on the Internet and assorted Bulletin Boards; by telephone using various toll free numbers to access an interactive system, taped messages or to speak with an assistor; and through walk-in service at an IRS office.

As illustrated in Chart I on the next page, for the current fiscal year, taxpayer walk-in assistance offices in combination with improved telephone services is projected to-deliver nationally a level of service considerably above that delivered in the 1995 filing season. Taxpayers have been more successful in getting through to the IRS on its toll-free telephone lines, and the total number of people served by the IRS is expected to increase to 118 million in fiscal year 1997 (an increase of 11.6 percent over the prior year).

To ensure that resources are used as effectively as possible, walk-in offices and staff have been placed in locations which generally serve the most taxpayers. Many walk-in sites were consolidated into others in the same geographic area. Despite the reduction in the actual number of sites providing walk-in service, the IRS has helped more taxpayers in walk-in sites this filing season than for the same period last year. From January of this year through March 8, 1997, the IRS has assisted 135,000 more taxpayers in walk-in sites, an increase of 7.7 percent over the same period last year.

In addition, taxpayer education activities will continue to be available in non-continuing district locations through the Volunteer Income Tax Assistance (VITA) Program, Tax Counseling for the Elderly (TCE), Understanding Taxes, Small Business Tax Education, and other community programs. Employees from walk-in assistance and compliance activities will be temporarily used as needed in the non continuing districts to work on these programs, particularly during the filing season.

CHART I—CUSTOMER SERVICE

Service program area	Fiscal year—			
	1995 actual	1996 actual	1997 projected	1997 thru 3/8/97
Telephone Access:				
Total Calls Answered	101,100,000	99,100,000	111,400,000	42,500,000
Toll-Free Calls Answered by IRS assistors	39,200,000	45,100,000	60,200,000	21,900,000
Calls Answered per FTE	7,051	8,321	8,610	N/A
Level of Access (percent)	39.0	46.0	60	72
Tax Law Accuracy Rate (percent)	90.1	91.6	92	94

CHART I—CUSTOMER SERVICE—Continued

Service program area	Fiscal year—			
	1995 actual	1996 actual	1997 projected	1997 thru 3/8/97
Taxpayer (TP) Education/Outreach:				
TP's Helped by Volunteer Income Tax Assistance (VITA)	1,800,000	1,900,000	1,900,000	N/A
TP's Helped by Tax Counseling for the Elderly	1,700,000	1,600,000	1,600,000	N/A
Outreach [1] (All Other Education Programs)	9,600,000	9,200,000	9,200,000	N/A
Walk-In Customer Service: Number of People Served	7,500,000	6,400,000	6,400,000	2,900,000

[1] Outreach programs include tax education packages and seminars for students, small businesses, etc.

EFFECT OF REORGANIZING ON THE PROBLEM RESOLUTION PROGRAM (PRP)

The goal of PRP is to make certain that taxpayer rights are protected, to serve as an advocate for the taxpayer within the IRS and to represent the interests and concerns of taxpayers. The IRS will continue to work all PRP cases, regardless of volume, and adequate staffing will be provided to complete them. The caseworkers themselves will be generally consolidated in the district headquarters offices, and will continue to provide quality service to taxpayers in all locations within the district.

The district Taxpayer Advocate (formerly the district Problem Resolution Officer) continues to be responsible for the oversight, training and direction of the caseworkers. An Associate Taxpayer Advocate (formerly known as Associate Problem Resolution Officer) remains in all non-continuing district offices and will handle local needs, continuing the commitment the IRS made to Members of Congress when it announced the district office consolidations in 1995. The title change was the result of the Taxpayer Bill of Rights 2, which also provided the Advocate with additional authority to assist taxpayers in hardship situations.

As indicated in Chart II on the Problem Resolution Program (PRP), the IRS will continue to be responsive to taxpayers who experience problems.

CHART II—PROGRAM RESOLUTION PROGRAM

Service Program Area	Fiscal year—		
	1995 actual	1996 actual	1997 projections
Quality Customer Service Rate (District Office) [1] (percent)	79.9	80.6	81.6
Total PRP Cases Closed (same as cases received)	416,476	328,088	([2])

[1] Rate at which customer service standards are met in case work processing based on monthly review of samples of closed cases from each district and service center. A scoring system allocates point values to the processing standards.

[2] No Projection. The IRS will work all PRP cases as it has in previous years.

COSTS AND BENEFITS OF REORGANIZATION

The IRS will achieve significant savings as a result of its reorganizations (through fiscal year 2001). When the reorganization efforts in the field offices and the Headquarters Office in Washington, D.C. are combined, the *total net* five-year savings is estimated at $306.8 million, which is being redirected to front line customer service and compliance operations. This total net savings estimate differs from the original estimate provided to Congress for a number of reasons. The original estimate of $771 million in August 1996, included $441 million in savings from the elimination of 1,500 Information Systems (IS) positions. This was the best estimate of the required IS downsizing based on the fiscal year 1997 IRS budget being discussed at that time. In November 1996, IRS reduced its savings projection to $431 million, which included the elimination of 819 IS positions. As the proposed downsizing of IS has been reduced, so have the estimated savings from the total IRS downsizing effort.

As shown in Chart III below, the projected savings from the field component of the reorganization have remained fairly constant. The original estimate was $144 million. This was based on an anticipated reduction in force date of July 1, 1997. With the separation date now being projected as September 1, 1997, coupled with slight changes in the number of positions to be eliminated, the estimate is now $138 million.

CHART III—FIELD REORGANIZATION SAVINGS

[Dollars in millions]

	Fiscal year—					5-year total
	1997	1998	1999	2000	2001	
Transition Costs	$33.8	$10.2	.....	.....	.....	$44.0
Cost of Filling Positions	24.0	49.9	$53.6	$54.7	$55.9	238.1
Salary Savings	38.3	90.8	97.0	97.0	97.0	420.1
Net Savings	(19.5)	30.7	43.4	42.3	41.1	138.0

Notes:
—Transition costs include the cost of buyouts, moves, and reduction in force (RIF).
—2,371 field positions are eliminated
—1,312 needed field positions are filled
—969 employees in field positions accept buyouts
—Cost of new positions is the salaries and training costs of positions created due to reorganization.
—Salary savings is the reduction in salary expenses from positions eliminated due to the reorganization.
—These costs assume employees separated by RIF are off the rolls by September 1, 1997.
—All costs considered in constant dollars.
—Beginning in fiscal year 1998, savings include approximately $8.7 million more in annualized rent cost avoidance, in addition to the $138 million shown above.

The redirection of these resources to front line customer service and compliance operations will allow the IRS to maintain stable levels of service and compliance in fiscal year 1998.

CONCLUSION

The efficiencies gained from the reorganization, and the ongoing actions discussed below, will enable the IRS to exceed the fiscal year 1995 level of service to taxpayers. In addition, the IRS continues to put the customer first and introduce and refine new services that make it easier for taxpayers to get information, file their returns, pay their taxes and get their refunds, and less costly for the IRS to administer. For example:

—The IRS is making it easier for taxpayers to file and get help. During fiscal year 1996, the IRS received 15 million electronically filed-returns, an increase of 27 percent over fiscal year 1995. The biggest success was the TeleFile program, where 2.8 million taxpayers were able to file by making an easy, short telephone call (about nine minutes) to a toll-free number. No paper is required. The returns processed through the program had an accuracy rate of 99.5 percent. The TeleFile program is available to over 26 million taxpayers in fiscal year 1997. Through March 21, 1997, the IRS has received 3.8 million returns, more than all of fiscal year 1996.

—The IRS has a world-class Web site on the Internet. The site provides access to all IRS forms and publications, plain language summaries of tax regulations, the IRS Bulletin, answers to frequently asked questions and an array of other self-help tools. This service is available worldwide, 24 hours a day, to anyone with a personal computer and access to the Internet. As of March 16, 1997, IRS has had 82 million contacts to its Web site during this fiscal year, compared with 30 million for the same period last year.

—Another effort to provide faster, more convenient service to taxpayers is the TaxFax Service. Small businesses and individuals are the primary users of this system. Through it, taxpayers can order and receive tax forms and instructions directly, thus providing faster service 24 hours a day at less cost to the IRS. So far this filing season, over 240,000 requests for tax forms and instructions have been processed.

—The IRS has a special telephone number for tax refund inquiries. The new number helps taxpayers who only have a refund question, and frees up the availability of assistors for taxpayers who need help on tax law or account questions. Refund inquiries are also available through TeleTax 16 hours a day on weekdays.

—Taxpayers can use automated assistance options, such as interactive telephone applications that allow callers to use their touch-tone phones to get tax account information. Two benefits of the initiatives are that callers can learn the status of their refunds and enter into installment agreements by using their touch-tone telephones. Also, the automated Tax Topics information service is available 24 hours a day, seven days a week.

—The IRS conducted a comprehensive review of its notices to taxpayers. During 1996, it eliminated 12 notices that are mailed out 18 million times per year. This relieved taxpayers from unnecessary additional contacts with the IRS, and

saved postage costs for the IRS. IRS plans to eliminate another 20 notices or letters for fiscal year 1997.

—Employers nationwide can now electronically file Form 941, Employer's Quarterly Tax Return. The IRS processed almost 364,000 electronically filed Forms 941 in 1996. Electronic filing of Forms 941 has increased accuracy and reduced processing time from three weeks to as little as one week.

APPENDIX, DEFINITIONS OF TERMS

After-Hours Calls.—The number of telephone calls after normal IRS business hours in which the callers select an automated service and complete the interactive process.

Calls Answered per FTE.—The total of all calls answered [including assistor and automated responses, all customer service call sites and International, but excluding TeleTax calls received at (800) 829–4477] divided by total program FTE expended.

Level of Access.—Actual calls answered (callers served) divided by unique number demand, i.e., the number of individual phone numbers from which the IRS received calls.

Tax Counseling for the Elderly (TCE).—The TCE Program is administered by the IRS in cooperative agreements with nonprofit agencies and organizations. It establishes a network of trained volunteers who provide free tax information and return preparation to taxpayers 60 years of age or older.

TaxFax.—System allowing taxpayers to order and receive tax forms and instructions by directly entering codes into their fax machines. This results in faster service (24 hours a day) for taxpayers and savings in postage and handling to the IRS. Small businesses and individuals are the primary customers.

Tax Law Accuracy Rate—District Only.—Accuracy of tax law responses provided by IRS telephone assistors at district toll-free telephone sites, as measured by the Integrated Test Call Survey System, a centrally administered quality control site.

TeleTax.—TeleTax is an automated interactive system which became available eleven years ago. It offers prerecorded information on the status of tax refunds and on 148 tax topics. The system is available to taxpayers seven days a week, 24 hours a day for tax topic information, and 16 hours on week days for refund inquiries.

Toll-Free Calls Answered by IRS Assistors.—Number of telephone calls handled by IRS employees through the toll-free taxpayer service system, but not including local calls or those handled by automated applications.

Total Calls Answered (Including Automation and After Hours).—Total of all telephone calls handled by IRS assistors on toll-free and non-toll free lines, through TeleTax and Interactive Voice Response Units, and after-hours applications.

Volunteer Income Tax Assistance (VITA).—Provides free tax assistance at community locations to individuals who cannot afford paid-professional tax help. Volunteers trained by the IRS assist taxpayers with basic returns, particularly people who have limited income or who have special needs, e.g., are disabled, non-English speaking, elderly, etc.

Question. What are the fiscal year 1995 levels of service, staffing and funding that IRS is using as a baseline for implementing these provisions?

Answer. As indicated previously, nearly 109 million taxpayers were assisted through telephone, walk-in and correspondence contacts in fiscal year 1995 (compared to 116 million in fiscal year 1997). Resources devoted to Taxpayer Service in fiscal year 1995 totaled 8,049 FTE and $447.6 million (compared to 8,048 FTE and $482.0 million in fiscal year 1997).

5. As a result of restructuring, two components of customer service have been transferred to IRS' enforcement functions. The Collection function is now responsible for managing the walk-in taxpayer service operation and the Examination function is responsible for managing taxpayer education activities.

Question. Please explain the rationale for assigning these customer service activities to functions whose basic missions are enforcement oriented.

Answer. Customer Service is responsible at the National level for the oversight of the Customer Service programs. On site and at the regional level, the day to day operation of the walk-in program is overseen by Collection management since a high percentage of employees on site in a walk-in office are Collection employees and walk-in issues are generally notice related issues that tend to be Collection related issues. IRS has determined that early resolution of account issues is the most cost effective way of doing business and is in the best interest of taxpayers. With that in mind, we have linked the various components of the organization to make it easier for taxpayers to comply with the tax laws. The Customer Service organization provides taxpayers with answers to tax law and account/procedural questions, provides payment options, computer matches third party information documents to

filed returns and identifies non filers, performs correspondence audits to correct simple issues and assists taxpayers with balance due issues and, when appropriate, places a lien or levy against the taxpayer's assets. All of these functions are provided in a non face-to-face environment and the same taxpayer, or customer, may need to interact with IRS in several of these areas on the same issue.

For example, under the former structure, a taxpayer who owed taxes might have to call three different functions to: 1) get answers to tax law questions to file his return; 2) request the abatement of penalties; and 3) set up a payment plan. Assistors in Customer Service treat taxpayers as customers of the entire IRS regardless of where they live and file their tax returns, rather than as customers of a single function within the IRS. The Customer Service structure allows for greater flexibility in the use of resources, allowing IRS to maximize compliance while reducing burden for the taxpayer and cost for the IRS.

Question. How will IRS ensure that walk-in services and taxpayer education receive their fair share when Examination and Collection have to make tough decisions as to where to allocate their resources? On what basis, for example, will Collection make resource allocation decisions when faced with the competing priorities of collecting delinquent debts and serving taxpayers at walk-in sites?

Answer. For fiscal year 1997 and 1998, the IRS will maintain both programs at the fiscal year 1996 level. The IRS continues to expand and enhance outreach efforts associated with taxpayer education, including VITA sites, Tax Counseling for the Elderly and a multitude of specialized programs aimed at educating students and new business owners on our tax administration system.

During the height of the filing season, both Examination (tax auditors and revenue agents) and Collection (revenue officers) personnel are detailed to handle walk-in traffic in field posts of duty as needed to assist taxpayers with their tax law and account questions.

Question. How does IRS measure and compare the impact of these different activities on its mission-effectiveness indicator?

Answer. The Mission Effectiveness Indicator (MEI) is influenced by a number of external factors, such as personal income growth, inflation, unemployment, and other demographic characteristics. It is difficult to isolate the impact of these external factors from the impact of IRS actions. Consequently, it is very difficult to make direct quantitative links between IRS activities and the MEI. However, the IRS does not rely solely on this measure to evaluate its performance. IRS routinely monitors a large number of operational measures on which its activities have a clearly measurable impact.

6. IRS' fiscal year 1996 toll-free telephone accessibility goal was 37 percent. IRS reports that it achieved a rate of 46 percent by using automated call technology, improving call routing, balancing tax information and account calls, and emphasizing the use of the probe and response guide.

Question. What did IRS do in fiscal year 1996 in each of these areas?

Answer. In fiscal year 1996, level of access to toll-free lines for tax law and account assistance was 46 percent an increase from 39 percent in fiscal year 1995.

There are several noteworthy accomplishments that enabled us to make significant improvements in our customer service. The implementation of a system which allowed our assistors to access data in all of the service centers gave us the capability to maximize nationwide call routing. This initiative allowed us to provide more equal access around the nation and not only to answer questions, but also to make account adjustments from anywhere in the country.

In 1996, we completed the installation of Automated Call Distributors (ACD's) in all sites. These devices allowed each callsite to route calls to an assistor with the expertise to answer the taxpayer's specific question. The combination of Voice Response Units (VRU's) and ACD's boosted our productivity. These two pieces of equipment efficiently identify issues, enabling taxpayers to be routed to either an automated system or to an assistor. The assistors are available for more complex issues, and the less complex inquiries are channeled to the automated systems. By more effectively routing nationwide traffic and getting individual calls to the appropriate assistor, we experienced an increase in productivity of approximately 15–20 percent in each site as ACD's were installed.

Another noteworthy achievement was the distribution of more than 3,000 terminals equipped to use an early version of ICP which allowed the assistors to access multiple databases from a single terminal.

7. According to the performance measures in IRS' fiscal year 1998 budget estimates, telephone accessibility is projected to increase from 46 percent in fiscal year 1996 to 60 percent in fiscal year 1997 and to remain at that level in fiscal year 1998.

Question. What is IRS doing differently in 1997 compared to 1996 that will enable it to increase accessibility to 60 percent?

Answer. For this filing season, we implemented strategies to increase the number of taxpayers we can assist by increasing access. We expanded hours of service, provided Sunday service three times during this filing season and extended hours for the last four days of the filing season. We implemented a new toll-free number that enables taxpayers to quickly determine the status of their refunds.

We are using our resources differently to ensure more taxpayers are served—for tax law questions, taxpayers who wish to call after hours or do not want to wait, may leave their questions on a recorded message, and an employee will call the taxpayer back within two business days with an answer. We are putting more people on the telephones. For complex questions, we have assigned senior technical personnel to answer written referrals. We have implemented consistent levels of authority to ensure that all assistors can make account adjustments while the taxpayer is on the telephone. We will enhance automation by introducing new interactive applications that allow more taxpayers to get answers to their questions and resolve issues without having to speak with an assistor.

We are improving call site management practices by implementing site performance measures for fiscal year 1997 that address efficiency rather than volume. We have implemented guidelines for the use of automated applications that focus on customer satisfaction rather than calls answered.

Question. Has IRS made any changes to the way it measures accessibility in 1997 compared to 1996?

A slight change was made to the level of access formula for fiscal year 1997. Since demand is measured on a 24-hour basis, we measured calls answered on a 24-hour basis in fiscal year 1997. In fiscal year 1996, calls answered did not include after hours calls.

Question. Why is no increase projected for fiscal year 1998? Even without additional staffing in 1998, shouldn't some increase be expected as a result of improved productivity through additional modernization of systems or work processes?

Answer. Based on our experience in fiscal year 1997, we are planning for improvements in our level of access, contingent on budget availability.

8. We understand that one step IRS took to increase telephone access in fiscal year 1997 was to detail staff from other functions, such as the function that handles taxpayer correspondence.

Question. How many staff have been or will be detailed from other IRS areas to answer telephone calls in 1997, and from what areas are those staff being detailed?

Answer. The IRS expended 124.9 FTE detailed staff from Examination to respond to questions left by taxpayers on our phone answering systems. We also detailed employees from Adjustments, Taxpayer Relations, Collection and Examination Branches in the service centers to increase telephone accessibility. Centers reported 126 FTE detailed to answering telephone calls during the filing season.

Question. Does IRS expect to do the same in 1998?

Answer. Yes, we expect to detail staff in from the various areas again.

Question. How are these details going to affect IRS' ability to respond in a timely manner to taxpayer correspondence? Do these details signify IRS' belief that it is more important to answer the phone than respond to correspondence?

Answer. We are committed to maintaining our standards on timely and accurate responses to taxpayer correspondence. We are continuing to cross train our staff to become more flexible in order to be able to shift personnel to handle peak workloads in various areas of Customer Service.

9. For fiscal year 1997, IRS has several toll-free numbers for persons to call if they need assistance. There are separate numbers, for example, for persons who have questions about their account, the tax law, and their refunds.

Question. Does the accessibility measure cited in IRS' budget estimates relate to all those toll-free lines?

Answer. Yes.

Question. If not, to what toll-free line(s) does the measure relate, and what are the accessibility goals for the other lines in fiscal year 1997 and 1998?

Answer. Our level of access goal is a combined goal for our toll-free assistance lines.

10. The best way to improve telephone accessibility is to reduce the need for taxpayers to call IRS in the first place.

Question. What is IRS doing to reduce the need for taxpayers to call IRS? In responding to this question, please explain what IRS is specifically doing to simplify forms, clarify instructions and clarify notices.

Answer. Recent notice re-engineering efforts eliminated 32 different notices which resulted in 21 million fewer notices being mailed to taxpayers, preventing 21 million

potential telephone inquiries. We are continuing to reduce the number of taxpayers who have to call us by improving or eliminating unclear or confusing taxpayer notices.

Many taxpayers call about the status of their refund. Despite a reduction in the amount of time it takes to process returns and issue refunds, a significantly increasing percentage of all calls are related to the status of funds. We continue to research why we get so many inquiries and how to provide taxpayers with enough information so that they do not need to call.

We document how the level of access affects repeat callers and the number of taxpayers who walk into our offices, how it impacts the amount of correspondence we receive, and how it alters our Problem Resolution cases.

With such information, we can communicate better with taxpayers, as well as make better decisions about the application of resources, the need for additional systemic support, and the use of technology.

Question. What constraints, if any, prevent the IRS from revising forms or clarifying notices?

Answer. The IRS annually reviews its forms and instructions to identify opportunities to simplify them and to reduce burden. Over half of the reporting burden (2.7 million hours) is based on three tax returns forms: the 1040 for individuals, the 1120 for corporations, and the 1065 for partnerships. These forms represent the fundamental reason for the amount of this data; it is collected to administer the tax laws.

The tax laws reflect a complex mix of policy goals that include achieving voluntary compliance, equity, economic efficiency, revenue protection, ability to effectively administer the law, and reduce taxpayer reporting burden. The IRS is faced with the formidable task of incorporating the legislative changes into comprehensive yet understandable tax forms, instructions, and publications. Extensive legislative changes enacted past July of any tax year makes it more difficult to implement the changes to forms, instructions, and publications because the IRS has less lead time to analyze the provisions, develop new and revised material for taxpayers and ensure that the information is printed and distributed timely to taxpayers at the beginning of the filing season.

The Service has undertaken a major initiative to simplify and reduce the number of notices and letters that are sent to taxpayers. We are continuing to make significant progress in his area. So far, the IRS has eliminated 32 notices and letters that were previously sent out over 21 million times a year, reducing the need for taxpayers to call or write the IRS about the notices.

Computer programs that generate most of our Master File and Integrated Data Retrieval System notices use older technologies that make it more difficult to make changes to the notices quickly.

Other programming priorities, such as the Year 2000 conversion, can supersede program enhancements to these notices.

Question. What legislative, technological, or procedural changes are needed to facilitate these processes? What specific evidence can IRS point to that illustrate these actions have had a positive effect?

Answer. Technological alternatives to programming Master File notices, such as adequate software to provide nationwide one-page taxpayer notices with alternatives for individual text modification are also needed. These will save time and allow for forms to be modified on a timely basis. IRS has used qualitative techniques such as focus group interviews and surveys to measure what taxpayers think of our telephone and correspondence services. A list of our more recent data gathering activities were provided earlier in this document.

Question. For example, does IRS keep statistics that would show how the number of calls relating to specific notices have changed since those notices were revised?

Answer. IRS does not keep statistics on specific notices and related phone calls.

DOCUMENT MATCHING

1. According to IRS' fiscal year 1998 budget estimates, one component of the Document Matching activity—the Substitute for Return (SFR) program—was halted in January 1996 and will not be reinstated in fiscal year 1998 because of insufficient funding. However, IRS' budget estimates show that net tax delinquency assessments in fiscal year 1996 for the SFR program were $1.47 billion. This was slightly more than the net tax delinquency assessments of $1.42 billion from another component of Document Matching—the Underreporter Program. (The $1.42 billion is the net of $1.56 billion in assessments less $135 million in refunds.)

Question. Please provide information on the costs of the SFR and Underreporter programs that generated these assessments in fiscal year 1996.

Answer. The Underreporter Program cost was $59,819,624 and the Automated Substitute for Return (ASFR) Program cost was $12,885,233 in fiscal year 1996.

ASFR, formerly a Collection nonfiler program, and the Substitute for Return (SFR), formerly an Examination program, are two separate programs. The question refers to the ASFR program. Only the ASFR program was halted. The Examination SFR program has always been fully funded and continues to be fully funded for fiscal year 1998. Some ASFR cases will be worked in the Examination SFR program in fiscal year 1998.

Question. And explain why, if the dollar amount of assessments is a valid performance measure, the SFR program was halted.

Answer. In response to corporate budget reductions, the ASFR Program and Underreporter Program have been reduced. Less revenue is collected with ASFR than Underreporter per staff year. ASFR is not constrained by a statute of limitations and can, therefore, recover if a subsequent restoration of funding becomes feasible. The Underreporter Program, however, is time sensitive and cannot easily be restored if funding increases.

Question. What are the collection rates for SFR and Underreporter program assessments?

Answer. See Attachment 3.

[The information follows:]

ATTACHMENT 3.—ESTIMATED COLLECTION RATES BY YEAR—COLLECTED DOLLARS AS PERCENT OF NET ASSESSED DOLLARS

[Dollars in millions]

Program	Fiscal year 1996 net assessed dollars (actual)	1996 year 1	1997 year 2	1998 year 3	1999 year 4	2000 year 5	2001 year 6	Total
Underreporter	$1,494							
Rate (percent)		50	20	15	5			90
Dollars		$747	$299	$224	$75			$1,345
Automated substitute for return	$1,929							
Rate (percent)		10	5	5	2	2	1	25
Dollars		$193	$96	$96	$39	$39	$19	$482

NOTES:

1. Net assessed dollars include abatements.
2. Source of fiscal year 1996 net assessed dollars and rates: Enforcement Revenue Information System (ERIS).
3. Estimates are based on previous actual experience. Year 1 refers to year of assessment; year 2 is one year after year of assessment. Thus, for Underreporter assessments made in fiscal year 1996, we estimate that 20 percent of that assessment would be collected in fiscal year 1997.

Question. More specifically, for each of those programs, how much of the assessments made in 1996 does IRS expect to collect in 1997.

Answer. See Attachment 3.

ASFR: 5 percent; $96 million. Underreporter: 20 percent; $299 million.

Question. In 1998?

Answer. See Attachment 3.

ASFR: 5 percent; $96 million. Underreporter: 15 percent; $224 million.

Question. Please explain the differences in the percentage of assessments collected from the two programs.

Answer. The difference in the rate of collectibility is due to the type of taxpayer each program addresses. ASFR is designed to target the nonfiler, while the Underreporter Program primarily deals with a voluntary filer who fails to report income. Therefore, when the IRS through the Underreporter Program informs the taxpayer of his/her underpayment, the taxpayer complies and pays. The nonfiler, however, frequently does not comply unless further enforcement (levy) action is taken.

Question. Since the impact of IRS' enforcement efforts is really determined by the amount actually collected, why doesn't the IRS use dollars collected as its performance measure for the SFR and Underreporter programs?

Answer. The mission of the IRS is not only to collect the tax but to ensure voluntary compliance with the tax law. The document matching program enables the IRS to identify underreporting, including income reporting discrepancies, unsubstantiated deductions and nonfiling of tax returns. These programs provide a compliance presence and help to prevent the growth of nonfiler and underreported income populations. A 1996 Internal Audit Review shows the Automated Substitute for Return Program (ASFR) resulted in 60 percent of delinquent taxpayers (nonfilers) becoming compliant (filers) in subsequent years. Dollars collected on all programs (including SFR) is a performance measure for the Collection function. Future collectability cannot always be determined at the time of assessment due to changing circumstances from the time of assessment to collection. However, we understand the importance of collecting tax dollars and encourage the payment of taxes owed as early in the process as possible.

TAX LAW ENFORCEMENT

IRS' fiscal year 1998 budget request includes $3.2 billion for Tax Law Enforcement. The following questions relate to that portion of IRS' request.

CRIMINAL INVESTIGATION

1. In its budget estimates for Criminal Investigation, IRS note that 18 percent of its special agents are eligible to retire in fiscal year 1997, and another 13 percent will be eligible to retire in fiscal year 1998, 1999, and 2000.

Question. How many of those eligible to retire does IRS expect will actually retire between now and 2000?

Answer. The IRS estimates that approximately 550 special agents will retire between now and the end of fiscal year 2000. However, this is an estimate and since 49.7 percent of the work force is 45 years or older, a significantly larger number could retire depending upon economic conditions and employment possibilities.

Question. What plans does IRS have to overcome the potentially adverse effects of such a high turnover of special agents?

Answer. The IRS is planning to reduce its commitment to the "War on Drugs". In order to continue to fulfill its mission of fostering voluntary compliance, the IRS will concentrate the remaining special agents on "Tax Gap" investigations. The IRS's support of narcotics and money laundering investigations will be limited to the resources provided by the Organized Crime Drug Enforcement Task Force (OCDETF) through the interagency reimbursable agreement with the Department of Justice. This will be a reduction of over 50 percent from current levels. This reduction will seriously curtail IRS's ability to participate in multi-agency drug task forces sponsored by local United States Attorneys across the nation. The impact will be especially hard on OCDETF investigations. It will also significantly reduce the amount of funds flowing into the Treasury Asset Forfeiture Fund from IRS investigative forfeitures.

Question. What succession planning exists?

Answer. The IRS has a detailed succession planning program for special agents. The program covers the development of managers from first line through executives. It provides a step-by-step plan which details length of time between levels and the progression through districts of varying sizes up to eligibility for the Senior Executive Service. The program also requires service in a staff position at either the regional or headquarters level.

Question. What on-the-job training or other means for developing needed expertise is planned?

Answer. The IRS is in the process of revamping the entire special agent basic training program to ensure the highest quality training program which covers all essential special agent tasks. The program will cover classroom and on-the-job training. The task analysis was recently validated by a task force of field agents to ensure that all essential tasks are covered. The revision will be completed for the initiation of the advance special agent hiring program for fiscal year 1999.

2. The only significant program change in IRS' fiscal year 1998 budget request, outside of the Information Systems area, is a $1 million increase for combating overseas crime, specifically money laundering.

Question. Why is this a priority for IRS?

Answer. In 1995, the IRS Criminal Investigation (CI) organization developed an International Strategy to accomplish its law enforcement objectives in the international arena. Governments around the world are realizing that money laundering and other financial crimes are no longer limited by their geographic boundaries. Within the last five years, at least 100 countries have adopted or are considering passage of laws which criminalize various financial crimes including money laundering.

In 1996, CI obtained permanent billets for special agents in Bogota, Colombia, SA; Mexico City, Mexico; and Frankfurt, Germany. In addition, temporary assignments were established for Ottawa, Canada, and Hong Kong. The establishment of permanent billets is anticipated for both of these locations in 1998.

The CI International Strategy emphasizes cooperation among U.S. and international law enforcement communities. The successful financial disruption of major international criminal organizations, such as narcotics-related money laundering rings, can best be achieved through the multi-national investigation. Even with the short time period that our special agents have been assigned overseas, they have worked closely with investigators responsible for investigating similar crimes throughout the world, which has assisted in obtaining information needed in our domestic investigations. Our special agents provide valuable assistance in the form of training and advice to foreign governments trying to develop new financial crimes laws and information-sharing agreements. Numerous foreign governments worldwide have requested CI's assistance in developing money laundering and asset forfeiture legislation. Our special agents assigned to overseas posts attempt to assist these countries in developing improved banking laws and currency regulations as part of a comprehensive effort to deter money laundering and other financial crimes.

Funding was not requested exclusively for conducting overseas money laundering investigations. Funding was requested to assign, support and maintain CI special agents in overseas posts.

Question. What programs does IRS have in place relative to money laundering?

Answer. The primary mission of CI is to foster voluntary compliance with the tax laws of the U.S. through vigorous enforcement of the criminal statutes over which CI has jurisdiction (i.e., Title 26 and 31, tax, currency reporting, and forfeiture; and Title 18, money laundering and forfeiture). CI's statutory authority coupled with the financial investigative expertise of our special agents, has proven extremely useful in financially disrupting and dismantling criminal organizations in conjunction with the efforts of other federal law enforcement agencies.

It is the objective of CI to identify, investigate, and prosecute the most significant tax, currency, and money laundering offenders; and to pursue the assets of those offenders both domestically and internationally for criminal, tax, and asset forfeiture purposes. Due to its limited resources and specialized expertise, CI will prioritize its efforts in currency reporting and money laundering enforcement, concentrating on those investigations whose size, scope, and complexity require the financial investigative expertise of its special agents. Selection and prioritization of targets for investigation will be in accordance with minimum standards set by the Assistant Commissioner (CI) and in furtherance of CI's mission.

Question. What is IRS' authority and responsibility in this area?

Answer. The IRS' authority to investigate money laundering is delineated in the Memorandum of Understanding among the Secretary of the Treasury, the Attorney General, and the Postmaster General regarding Money Laundering Investigations. The memorandum states, "The Internal Revenue Service will have investigative jurisdiction over all violations of Section 1956 and 1957 where the underlying conduct is subject to investigation under Title 26 or the Bank Secrecy Act."

IRS' authority to investigate violations of Title 31 (Bank Secrecy Act) derives from Delegation Order 143. The Commissioner delegated the authority to initiate criminal investigations of financial institutions not currently examined by federal bank supervisory agencies to the Assistant Commissioner (CI). In addition, the Commis-

sioner delegated the authority to initiate Title 31 criminal investigations of banks and brokers pursuant to Treasury Order 150–10, Directive 15–41 (the Memorandum of Understanding referenced above), and 26 CFR 301.7701–9 (c).

EXAMINATION

1. In a September 1994 report on the Coordinated Examination Program (CEP) and a 1996 report on large corporations not in the CEP, GAO reported that less than 30 percent of the additional taxes recommended from audits was assessed after appeals (GAO/GOD–94–70, Sept. 1, 1994 and GAO/GOD–96–6, Oct. 13, 1996). Among other things, GAO recommended that IRS begin using dollars actually collected as a program measure. Although IRS can now get this kind of information from the Enforcement Revenue Information System (EGIS), the fiscal year 1998 budget continues to show audit results in terms of dollars recommended.

Question. When does IRS plan to begin measuring Exam results in terms of dollars collected?

Answer. The IRS did not agree with the GAO recommendation to use collection rates as a measurement tool to measure effectiveness and productivity—this is true for the Coordinated Examination Program (CEP) and general program examination cases. Examination's primary function is to conduct examinations to determine the correct tax liability. Future collectibility cannot always be determined at the time of examination based on changing circumstances from the time of the audit to collection, e.g., a company that goes out of business. However, we understand the importance of collecting tax dollars and encourage the payment of taxes owed as early in the examination process as possible. We currently have two measures which foster the payment of taxes owed: Percent of Dollars Collected on Examination Assessments Prior to 2nd Notice and CEP Agreed Dollars per FTE. These measures are a small part of an aggregate of a field office's bottom line results and are not used to measure productivity; nor are they used to evaluate individual employees. Employees' performance is based on critical elements and performance standards which assess the overall performance of the duties and responsibilities of their position. In fact, our own policy statement prohibits the use of tax enforcement results in the evaluation of individual performance.

Enforcement Revenue Information System (ERIS) data, which is more current than the GAO data, does track collections and is more indicative of current CEP accomplishments. The collection rate, represented by ERIS data, plays an important role in the allocation of budget and resources. However, it should not be used to measure productivity because the period from the time the case closes until the final dollars are collected spans more than the range of the most current data available in ERIS. ERIS data indicates that we average approximately $9.4 billion collected to date per year on all cases. While the percent collected of settled recommendations remains fairly constant at 23.7 percent, future collections cannot be confidently projected. Also contributing to the time span and unpredictability of collecting dollars on unagreed cases is the Appeals process. Appeals settles unagreed cases using a variety of methods including additional information submitted by the taxpayer, settlement authority, quid pro quo, hazards of litigation, etc.

Collection rates do not fully measure CEP effectiveness or CEP productivity because they contain distortions and are influenced by actions beyond the control of Examination. GAO's collection rate included net operating loss and credit carrybacks as well as post closure abatements which distort the audit work and ultimately the recommended tax proposed by Examination. Examination has no control over these items. Nor do they have control over claims and other affirmative issues raised by taxpayers during the course of the audits. These distortions are significant and should have no role in measuring the efforts of the examination team.

GAO acknowledged that these items, (net operating loss and credit carrybacks, post closure abatements and claims), influenced the collection rate but ignored them when they continued to stress using the collection rate as a measurement tool.

One of the measurements we use to measure CEP productivity is Total Adjusted Revenue (TAR). This takes into account the recommended tax proposed by the examination team as well as their efforts in considering taxpayer claims, affirmative issues and credit and loss carrybacks. Not only do we measure potential for dollars being paid but also the efforts to prevent paying out dollars through claim and loss and credit carryback disallowances. These efforts do not show up in the collection rate but do represent a big part of our examination activities and deserve to be recognized. Revenue protection activities prevent dollars from being paid out of the Treasury.

Question. In determining how it wants to allocate resources, how does IRS measure the relative return-on-investment of its various enforcement efforts?

Answer. The allocation of resources is based on a number of factors; one of which is return-on-investment (ROI). ROI matches costs with results to ensure that resources are applied to the most productive returns and areas. In Examination, there are a number of measurements which are based on the ROI concept. For example, the Coordinated Examination Program measures its effectiveness using Total Adjusted Revenue Dollars per Full Time Equivalents (FTE) and also Agreed Dollars per FTE's. Examination Programs, other than CEP, also have measurements based on Recommended Dollars per FTE.

In addition, there are other factors which impact resource allocations many of which revolve around ensuring compliance. For instance, our districts have analysis units searching for local projects and initiatives that have audit potential. Legislative changes often require resource commitments to ensure adequate compliance. Resources spent on these returns may not be as productive as our large corporate audits but our efforts are warranted none the less. Another example is our work in the international arena. In addition to our own initiatives, this area has generated a great deal of interest from Congress which has also urged us to pursue the shifting of income abroad by many taxpayers.

2. Since 1995, IRS has reemphasized its use of so-called financial status techniques in its audits of individual taxpayers. These techniques have been around for years but have fallen into disuse until recently. Their reemergence has generated various concerns among taxpayers and their representatives.

Question. What specific criteria drive the use of financial status techniques?

Answer. "Audit techniques" are the methods, such as interviewing the taxpayer or contacting third parties, by which information to complete an examination can be collected. There is no distinction between "financial status" audit techniques versus some other type of audit technique. As a result, there is no set criteria for the use of a specific method. The facts of the individual case determine which method is most appropriate.

Generally, the choice of audit techniques used during an audit will be influenced by three factors:

1. Type of Return—The audit techniques used for an individual will be different than those used for a business (sole proprietorship, corporation, partnership, etc). An audit of an individual could only require oral testimony from the taxpayer while an audit of a corporation would involve an analysis of the company's internal records.

2. Availability of Books and Records—Consideration is given to the type of records the taxpayer has to document the item being audited. For example, an individual may verify a mortgage interest expense with a 1099 issued from the finance company. If the mortgage was privately financed and a 1099 was not issued, the taxpayer may be asked to furnish canceled checks for the payments and the sales contract.

3. Issue Development—Information gathered during the examination itself may warrant different audit techniques. For example, a taxpayer's records are incomplete and a supplier is contacted to confirm purchases the taxpayer claimed as an expense.

Question. How does the IRS ensure that examination staff appropriately use these techniques?

Answer. Four memorandums stressing the purpose and appropriate use of "financial status" audit techniques have been issued to the field since August 1995. The memoranda provide guidance for determining the depth of interviews and restricting questions to information needed to complete the audit; verifying third party information (to the extent practicable) with the taxpayer; communicating with authorized powers of attorney; emphasizing expectations for professionalism and courtesy; and applying judgment to assess the facts and circumstances of individual cases.

An extensive new Manual section for completing income probes, including the use of appropriate audit techniques is being written. A draft will be available in September 1997.

On April 1, 1995, our quality measurement system, Examination Quality Measure System (EQMS), was expanded to include evaluation of financial status analyses.

Question. What percentage of audits used these methods in 1996? Is this more or less than in the past? What percentage would the IRS expect in 1997?

Answer. All audits include "techniques" as warranted by the facts of the case. The use of some specific techniques can be measured through the Examination Quality Measurement System (EQMS). The following information is based on case reviews conducted between April 1, 1995 and March 31, 1997.

Financial Status Analysis

At a minimum, examiners complete a financial status analysis to determine whether reported income is sufficient to support the taxpayer's financial activities. The two key steps of the Financial Status Analysis are: (1) the development of a preliminary analysis based on the tax return and case file data such as W–2's and 1099's and (2) the updating of the preliminary analysis for additional information gathered during the examination process. The completed analysis should indicate income sufficient to support the taxpayer's personal expenses, business expenditures, and acquisitions.

The depth of the analysis and the audit techniques used will be dependent upon facts of the individual case. When the financial status analysis indicates that reported income is sufficient to support the taxpayer's financial activities, then only the minimum requirements for the consideration of income must be performed. For individual nonbusiness returns, the taxpayer and/or representative will be questioned regarding taxable and nontaxable sources of income. For business returns, the minimum requirements include reconciling the books to the return, considering internal controls, evaluating the tax returns of significant shareholders, and analysis of the balance sheet.

Most cases are closed based on the preliminary financial status analysis and minimum required consideration of income. Field revenue agents successfully complete the financial status analysis on 78.5 percent of their cases; this percentage has remained constant since April 1995 and there are no indications that it will change in the future. Office auditors successfully complete financial status analyses on 84 percent of their cases; this is an increase from 73.5 percent in 1995, but no further increase is anticipated.

Indirect Methods

More in-depth audit techniques are used only when the financial status analysis cannot be reconciled. The most in-depth techniques are called indirect methods. There are five major indirect methods: (1) source and application of funds, (2) net worth, (3) bank account analysis, (4) percentage computations and (5) unit/volume analyses.

Based on the facts of the individual case, indirect methods are used in 16 percent of Office Audit examinations and 41 percent of Field cases. This percentage has not changed significantly since April 1995 nor is it anticipated that it will change in the future.

Interviewing Taxpayers

Taxpayers are interviewed in 75 percent of both Office Audit and Field Examination cases. This percentage has not changed since April 1995 and no change is anticipated in the future.

Third Party Contacts

Examiners generally look to the taxpayer/representative as the primary source of information during an examination. Third party contacts are made only when the taxpayer cannot provide the information. Third parties were contacted in 20 percent of Field Examination cases reviewed during fiscal year 1997. This is a significant decrease from 32 percent in fiscal year 1996. This information is not collected for Office Audit examinations.

Tours of Business Sites

Business sites are toured in 51 percent of examinations of business returns completed by Field Examination. This percentage has not changed since April 1995 and no change is anticipated in the future. Tours of business sites are not conducted for Office Audit cases.

Question. How has the use of these techniques affected direct audit time and the amount of additional tax recommended?

Answer. There are many factors which will influence the final outcome of an examination and the ability to isolate and measure the impact of an individual factor is difficult.

However, one study of tours of business sites indicates that the examination cycle for business returns is shortened when a tour of the business site is conducted. This is true for agreed, no-change, and unagreed cases despite the significant difference in their examination cycles.

As noted in the chart below, the technical quality of the examination, as defined by the Auditing Standards, is also improved.

Key element	Business toured (percent)	Business not toured (percent)
1B. Income/Deduction/Crd Items Considered	88.05	86.17
2A. Internal Controls (Business Returns)	85.55	80.07
2B. Consideration of Books and Records	80.44	76.62
2C. Financial Status Analysis	78.61	73.58
3A. Prior/Sub. Returns	88.52	83.64
3B. Related Returns	81.82	77.68
4A. Interviews Conducted	90.49	79.17
4B. Adequate Exam Techniques Used	93.03	89.67

Note.—Each relationship was tested for independence using the Chi-square analysis.

No direct relationship between conducting a tour of the business site and the amount of additional tax recommended has been established.

3. In order to mitigate the impacts of funding cuts in Examination, IRS intends to train all districts in the use of alternative classification methods to identify high-yield workload.

Question. How do the alternative classification methods to identify high-yield workload differ from the methods that have been used in the past?

Answer. Examination is completing the development of an automated system that has the ability to sort workload and provide districts with quick access to returns available for classification and assignment. The system can sort transcribed return data in Discriminant Index Function (DIF) order by market segment, income/asset ranges, potential complexity and location. The system allows the district to classify returns on-line versus looking at paper returns at a service center. It allows the Service to use examiners with market segment expertise to classify returns locally in their districts saving travel time and costs.

Examination is presently conducting a test of the SIGMA (Statistical Information for General Market Analysis) program. The SIGMA method ranks returns for classification by market segment, major primary business activity code, form type and income strata. SIGMA identifies potential aberrant return filers by comparing a return against what the average return looks like in the identified market segment.

COLLECTIONS

1. GAO recently reported in its High-Risk report on IRS that the inventory of tax debts at the end of fiscal year 1996 was $216 billion (GAO/HR–97–8, Feb. 1997).

Question. Please provide a detailed breakdown of these receivables by their collection status at the end of fiscal year 1996.

Answer. The attached chart (Attachment 4) shows our gross inventory of assessments broken down into our various workload statuses, and within the financial definitions.

[The information follows:]

ATTACHMENT 4.—ACCOUNTS RECEIVABLE DOLLAR INVENTORY STRATIFIED BY FINANCIAL COMPONENTS AND BY ACTIVE INVENTORY AND CURRENTLY NOT COLLECTIBLE

[Dollars in billions]

	Inactive	Deferred	Installment	TDA	Notice	Current	Other	NMF [3]	Total active	CNC	Totals
Gross inventory	$20.56	$1.63	$14.42	$44.24	$10.94	$2.94	$4.79	$4.33	$103.86	$112.43	$216.29
NMF inventory	1.24	.....	.....	1.57	.30	.....	1.22	(4.33)	.....	.....	.....
Subtotal after allocation	21.80	1.63	14.42	45.81	11.24	2.94	6.01	.....	103.86	.....	.....
Financial receivables	15.09	1.40	13.33	26.34	7.83	2.94	3.35	.96	71.24	51.18	122.42
NMF inventory	.49	.....	.....	.20	.12	.....	.15	(.96)	.....	.....	.....
Subtotal after allocation	15.58	1.40	13.33	26.54	7.95	2.94	3.50	.....	71.24	.....	.....
Financial writeoffs [1]	1.36	.....	.....	.05	.08	.....	.13	.06	1.61	26.68	28.29
NMF inventory	.....	.....	.....	.....	.....	.....	.06	(.06)	.....	.....	.....
Subtotal after allocation	1.36	.....	.....	.05	.08	.....	.20	.....	1.61	.....	.....
Compliance [2]	4.88	.22	1.09	19.22	3.22	.....	2.37	3.31	31.01	34.57	65.58
NMF inventory	.75	.....	.....	1.37	.18	.....	1.01	(3.31)	.....	.....	.....
Subtotal after allocation	5.63	.22	1.09	20.60	3.40	.....	3.38	.....	31.01	.....	.....
Compliance definition [5]	17.12	1.63	13.35	39.23	10.47	2.94	4.44	4.33	93.53	[6] 105.84	.....
NMF inventory	1.24	.....	.....	1.57	.30	.....	1.22	(4.33)	.....	.....	.....
Subtotal after allocation	18.36	1.63	13.35	40.80	10.77	2.94	5.66	.....	93.53	.....	.....

[1] RTC amounts included in Financial Writeoffs by major status: Inactive, $1.33; TDA, $0.05; Notice, $0.08; Other, $0.07; Total active, $1.53; and CNC, $18.35.

[2] Trust Fund Recovery (TFR) amounts included in Compliance Assessments by major status: Inactive, $2.11; Installment, $1.07; TDA, $4.96; Notice, $0.40; Other, $0.27; Total active, $8.81; and CNC, $6.59.

[3] In fiscal year 1995, we reported the Nonmaster File (NMF) figure as a separate category in the Total Active figures because our reports did not break these assessments into actual statuses. For fiscal year 1996, we are now able to segment these assessments into the various statuses. For comparison purposes, we have shown the gross inventory and the three financial components with NMF reported as a separate category, and after allocating the NMF into the various statuses in the subsequent lines.

[4] No changes are required to the CNC and the total figures since they included NMF in the prior year's report.

[5] The Compliance Definition is used by the Chief Compliance Officer to report on workload. RTC and TFR amounts are not included in this inventory.

[6] The CNC column under the Compliance definition includes all of RTC but excludes the TRF amounts.

Question. Please identify how much of this inventory represents valid financial receivables versus compliance assessments and how much IRS expects to eventually collect.

Answer. For fiscal year 1996, the Service divided the total inventory of assessments into three major categories: 1) financial receivables, 2) compliance assessments, and 3) financial write-offs. This new methodology for valuing receivables was adopted in 1995.

As of September 30, 1996, total financial receivables were $122.4 billion. Financial receivables are the amounts that the taxpayers agree to or the courts have ruled is owed. The allowance for doubtful accounts (ADA) amount was $88.6 billion. The net receivables amount (how much we expect to collect) was $33.8 billion.

We estimate the net realizable value of these financial receivables by applying an ADA using both a statistical sampling technique applied to a random stratified sample of financial receivables less that $10 million, and a complete review of all assessments over $10 million. The ADA reflects an estimate of the portion of total financial receivables deemed to be uncollectible. Factors such as death, bankruptcy, personal hardship, inability to locate taxpayers, an IRS or taxpayer error, economic conditions, age, and the dollar amounts of these receivables affect the collectibility.

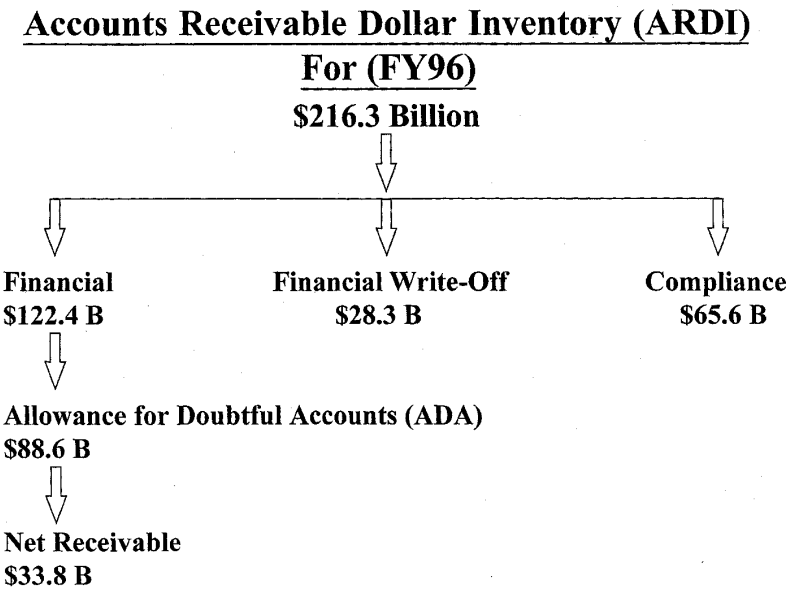
Excluded from financial receivables are $28.3 billion in receivables designated as financial write-offs. Financial write-offs are a separate category of financial receivables whose ultimate collection is unlikely. Due to the ten-year statute of limitations, the IRS must maintain these accounts on the master file until the statute for collection expires.

Also, excluded from financial receivables are $65.6 billion in compliance assessments. Compliance assessments consist of assessments primarily made for enforcement purposes. Actions may still be taken to collect these assessments, but because the taxpayer has not responded to validate the claim, or an appeal or tax court has not yet ruled, there is not an established claim with the taxpayer. Compliance assessments have been excluded from total tax receivables due to the uncertainty of their collection.

The attached chart (Attachment 5) shows the gross inventory of assessments and how we break it out for our financial statements.

[The information follows:]

ATTACHMENT 5



Question. Provide an estimate of how much of this inventory will be abated and for what reasons.

Answer. The IRS does not currently have any reports or estimates of how much of the inventory we expect to abate.

2. Much discussion in past years has centered on the growth in the inventory of tax debts. However, because of the 10-year collection statute of limitations and interest and penalty accruals on accounts in the inventory, this may not be the best measure of performance.

Question. What other measures does IRS think might be useful in assessing its performance in collecting tax debts?

Answer. The measures that the IRS believes are useful in assessing its performance in collecting tax debts (based on available data) are total dollars collected as a percentage of current year field receivables; percentage of current year Automated Collection System receivables; and percent examination dollars collected pre-second notice as an assessment of collection performance in relationship to receivables. These measures are being tracked by the IRS.

Question. For example, could IRS tell us the amount of new receivables identified in the past three years and the collection outcome of these receivables?

Answer. Currently, the IRS uses the Enforcement Revenue Information System (EGIS) to track the collection outcome of accounts. Dollars collected on accounts that become delinquent are tracked from the date of assessment until the account is resolved or the statute expires. The IRS is developing a report that will show dollars collected from new receipts versus dollars collected from previously existing debt. However, this report will not be available for approximately one year.

4. Collection industry experience shows that the sooner one identifies a delinquency and starts collection, the more likely the debt will be collected. Many of the delinquencies IRS pursues are generated through its compliance programs, which identify non-filers, underreporters, and others who fail to voluntarily disclose their true tax liability. These compliance programs may not identify the delinquencies for a year or more after the due date of the return.

Question. What is the IRS doing to identify delinquencies sooner?

Answer. For tax years 1995 and 1996, IRS has accelerated its nonfiler identification program. For tax year 1995, we identified nonfilers in September 1996. This is three months earlier than the prior tax year of 1994. For tax year 1996, we will identify nonfilers in July 1997. This is five months earlier than tax year 1994. Notices for tax year 1996 will be issued six months after the due date of the return. The IRS began accelerating its Underreporter program in 1995 by issuing tax year 1993 notices in March, four months earlier than previous years. An additional three months acceleration was achieved for tax years 1994 and 1995 when we began issuing Underreporter notices in December of the same year the tax return was filed. For tax year 1996, we will begin to issue notices in December 1997.

Question. Does IRS foresee being able to identify nonfilers and underreporters by the due date of the return?

Answer. Under current systems and requirements, we do not foresee being able to identify nonfilers and underreporters by the return due date. These programs are driven primarily by income information extracted from various types of information returns filed by payers. We do not begin our nonfiler and underreporter identification programs until we receive this information. Some of this information has a due date of May 31 from the payers (e.g., Forms 5498 relating to Individual Retirement Accounts (IRA's)). This requires the IRS to identify nonfilers and underreporters after the due date of the return. In addition, the option of taxpayers requesting an automatic 120 day extension of time to file their return delays our identification of some nonfilers.

Question. What is needed to accomplish this?

Answer. Identifying nonfilers and underreporters by the return due date would require, in addition to significant systems modernization, the acceleration of information return reporting by payers; filing of extension to file requests before the return due date; and possibly postponing the return due date itself.

4. Considering the major concerns that GAO has raised over the years on the reliability of IRS data, particularly the underlying data that support many of IRS' reports, we are concerned about the accuracy of IRS delinquent tax collection figures.

Question. Please explain how collection figures are calculated?

Answer. Collection figures are obtained from two major computer systems: Master File and the Integrated Data Retrieval System (IDRS). Master File is the official source for Collection figures while IDRS data, which is more discreet, is used for functional analysis. Both systems provide accurate data for their designated purposes. Accuracy concerns occur when, out of necessity, our existing systems are needed to produce figures for which they were not originally intended.

Question. How is this money collected? For example, how much money is collected as a result of each of the following techniques: telephone calls, notices, liens, levies, seizures, and refund offsets.

Answer. The basic design, for both our Master File and IDRS reports, is to determine what transaction codes posted to tax modules while the modules were in a Collection status. Attributing moneys to the techniques listed is difficult because the major computer systems (Master File and IDRS) do not store the fact that a telephone call was made. Also, the same module could be subject to several techniques. It would not be unusual for the same tax module to have a phone call, a lien and a levy. However, based on status codes and designated payment codes, the allocation of the fiscal year 1996 Master File Yield is as follows:

Fiscal year 1996 Yield Allocation

Category	*Amount*
Notices	$14,711,979,711
Installment agreements	6,037,882,519
Taxpayer delinquent accounts (TDA's)	8,432,408,035
Deferrals	530,800,398
Non-master file (NMF)	63,028,124
Total	29,776,098,787

5. IRS' budget estimates include two different figures for the dollars collected per FTE in the Collection field function for fiscal year 1996. In reporting on the fiscal year 1996 performance plan and results (pg. TLE–22 of the budget estimates), IRS shows actual collections of $509,000 per FTE, while the fiscal year 1996 actual shown with the fiscal year 1997 and fiscal year 1998 performance plans (pg. TLE–10) is $486,000 per FTE.

Question. Please clarify this discrepancy.

Answer. The $509,000 figure refers to dollars per staff year; the $486,000 figure refers to dollars per FTE. The difference between the two is that dollars per FTE includes all Collection Field function (CFf) time, even if some CFf personnel are detailed out to other activities such as the Automated Collection System (ACS). Inclusion of this detail-out time causes the dollars per FTE to be lower than the dollars collected per staff year.

The IRS is moving toward usage of dollars per FTE as a consistent measure because FTE's give a more accurate reflection of resources from a financial standpoint and are in-line with budget allocations.

6. In response to questions at last year's appropriation hearing, IRS mentioned various initiatives that would increase the productivity of its collection staff. In its recent High-Risk report on IRS, GAO also reported that several such initiatives were underway (GAO/HR–97–8). However, in its fiscal year 1988 budget estimates (pg. TLE–10), IRS shows a lower collection figure per FTE in its field collection activity for fiscal year 1997 and fiscal year 1998 than it actually collected in fiscal year 1996.

Question. Please explain why the collections per FTE are expected to be lower in fiscal year 1997 and fiscal year 1998 given the continuing initiatives to increase productivity.

Answer. For fiscal year 1997, a three year baseline was the methodology used for goal setting, versus using the actual collections made in fiscal year 1996. The result was that the three year average was lower than the ending fiscal year 1996 results. In view of this, consideration is being given to using a different method in the future.

7. IRS reported that it collected almost $30 billion in delinquencies during fiscal year 1996, which represented a 19 percent increase over the $35 billion collected the year before. IRS does not project that it will be able to maintain that level of collections in fiscal year 1997 and fiscal year 1998.

Question. What factors accounted for the significant increases in Collections in 1996?

Answer. While we cannot account precisely for the causes of the increase in fiscal year 1996 collections compared to the prior year, there are certain things that we know. The largest increase was in notice and installment agreement yield: 18 percent in Individual Master File (IMF) and 25.9 percent in Business Master File (BMF). Taxpayer Delinquent Account (TDA) yield also grew significantly: 14.9 percent IMF and 12.2 percent BMF. Review of monthly data indicates that the total dollar amount of first notices issued began growing rapidly in the third quarter of fiscal year 1995 and continued strong into the third quarter of fiscal year 1996. It appears likely, therefore, that simple growth in notices was a major contributor to the growth of notice yield in fiscal year 1995 and fiscal year 1996. The growth of TDA yield is no doubt due in substantial part to the fiscal year 1995 compliance initiative. Prior research indicates a strong connection between Collection staffing

and TDA yields. Substantial increases in Collection staffing occurred in fiscal year 1995; while staffing declined some in fiscal year 1996, it remained well above the fiscal year 1994 level. By fiscal year 1996, the new Collection personnel had completed their fundamental training and had begun to be more productive, making significant contributions to yield.

Question. Why will IRS be unable to sustain this collection level in 1997 and 1998?

Answer. Our original projections were based on the fact that the continued loss of experienced personnel would ultimately have an impact on collection yield. Although, to date, this has not occurred, with collection yield through May 1997 at 3 percent above the prior year, we strongly feel there is a connection and at some point overall yield will decline.

8. Historically, IRS has devoted two-thirds of its collection resources to the field function where revenue officers, generally high-graded staff with many years of experience, make personal contact with delinquent taxpayers. Although this function has been the least productive, and most costly, step of the collection process and is used infrequently by private collectors, IRS continues to support a high level of field collection staff. In response to questions at last year's appropriation hearings, IRS stated that, first, service centers and the Automated Collection System call sites are staffed to capacity, and then, any additional resources go to the field. According to IRS figures, collections per ACS FTE are about three times that of field FTE's.

Question. Has IRS considered increasing the capacity at the call sites to take advantage of the higher productivity of this type of collection activity? If not, why?

Answer. IRS budget requests for ACS sites have consistently reflected the productivity of this collection activity. We will continue to fully staff ACS sites to the maximum authorized budget levels.

Question. What has the IRS done to improve the effectiveness and productivity of its field collection activity?

Answer. Collection has a number of actions in place or underway to increase yield and limit the growth of our accounts receivable. Collection has focused their efforts towards improving workflow, procedures, culture, management information and automation. Some examples of these initiatives are:

1. The Integrated Collected System (ICS): This is a computer based system that provides for automated field case actions such as notice of levy, case histories, trust fund recovery penalty computation. It has shown significant productivity enhancement for the nine districts in which it has been implemented. Roll-out of the system continues through fiscal year 1998.

2. Collection financial analysis standards: New procedures that use national and local expense standards have been implemented nationwide. Collection financial analysis standards provide revenue officers with uniform standards for evaluating taxpayer expense claims against national and local norms. These standards are applicable to individual income tax cases and provide a decision model for recommending adjustments in taxpayer financial obligations and/or assets to allow payment of the liability. The expense standard method will ensure that allowed expenses are not inflated and that payment capability is maximized.

3. The IRS continues its efforts in the Fed/State cooperation area to provide better information sources to its employees and provide higher productivity potential cases to the field from available inventories.

4. The Entity implementation project continues. Entity is a management control system which provides managers better information about employee case productivity. Entity information is used by managers to identify effective performance and issues which may require management direction. Archive data is also useful in determining which case types (individual income tax, in business trust fund, estate taxes, etc.) return the highest productivity for staff power invested.

5. Inventory Delivery System (IDS): Collection is working to improve workflow by preventing non-productive cases from reaching the field. IDS will centralize locator processing and use automated methods to evaluate delinquent accounts for collectibility so that the most productive accounts are sent to ACS or revenue officers.

Question. How is performance being measured, and what are the results to date?

Answer. The Annual Performance Plan measures listed below are used to rate performance in the Collection Field function and the National results as of May 1997:

Total dollars collected	$3,888,500,000
Dollars collected per FTE	$532,000
Total dollars collected as a percentage of current year field receivables	21.0

Average cycles per TDA/TDI disposition	34.6
Average hours per entity disposition	35.9

9. The private debt collection pilot program has been in operation for about six months.

Question. What are IRS' observations of the program at this time?

Answer. General observations on results of the Private Sector Debt Collection Program are tentative, since the analysis of the full year of operations will not be completed until September 30, 1997. In general, the IRS was impressed with the professionalism and commitment shown by the contractors; their organizational and management capabilities; their sensitivity to the importance of privacy, disclosure, and security issues unique to IRS tax collection; and their willingness to work closely with the IRS in resolving design, start-up, and shut-down issues in this pilot program.

However, experience based on quarterly and monthly invoices to date indicates that the results of the pilot will not be as satisfactory as thought in terms of dollar yield and number of open accounts resolved. The contractors are not finding and contacting as high a proportion of delinquent taxpayers as necessary to generate a revenue stream sufficient to produce a positive return on investment. Also, a much larger than anticipated proportion of the contacted taxpayers (approximately 63 percent) is being referred to the IRS for case resolution, which not only increases IRS overhead and contract administration costs, but inflates the opportunity costs of diverting highly productive ACS employees to handle lower value cases handed off by the contractors. IRS experience with these ACS employees reflect that they each bring in approximately 1.5 million dollars in revenue. Diverting these resources to handle contractor referred cases has the impact of reducing total revenue generated by ACS creating high lost opportunity costs. The IRS used ACS resources for the contractor-referred cases due to the skill necessary to handle this type of work.

The general conclusion to be drawn from experience to date is that the types of low activity aged cases reserved for contractors, as specified by the enabling legislation, are not very productive. They are low priority within the IRS for good reason, having already been worked through successive collection processes to the point of marginal yield potential. It is not cost effective, and is in fact counterproductive, to devote scarce resources to them, either by contract or in-house.

Question. What have been the results to date?

Answer. The contact rate, that is, the proportion of taxpayers that the contractors are able to talk to by phone through May 3, 1997, is approximately 18.5 percent of available cases. It is too early to give a precise estimate of the actual contact rate because the IRS has not yet processed and validated the contractor's invoices for the final two months.

The success rate of the contractors in obtaining full payments and unassisted installment agreements through May 3, 1997, was about 13 percent of the total number of contacts made. The success rate for IRS-assisted installment agreements secured by contractors was also about 13 percent of the total number of contacts. The success of the contractors in obtaining extended full pay commitments, however, was less than 1/10 of 1 percent, and the IRS has concluded that this category was not useful for the contractors. It must be emphasized, however, that even in those performance categories in which contractors have had some success, the revenue collected to date has been less than the IRS operational costs of the project.

Question. Has IRS or any of the contractors encountered any problems? If so, please elaborate.

Answer. Yes. Most of the problems experienced by the contractors and the IRS in the pilot project were operational in nature, or were a function of the newness of the program and the speed with which it had to be implemented. These were solved as they arose. Lessons learned for the future revolve around a few key problem areas:

—Outdated IRS data processing systems exacerbated the inherent difficulty of extracting qualifying cases from IRS master files, controlling them, and reintegrating them with IRS systems after contractor actions. These outdated systems also introduced unforeseen complications in merging the work from two IRS service centers.

—The application of Government-wide rules concerning "inherently governmental activities" resulted in severe limitations on the actual tasks the contractors can legally be given: in particular, contractors are prohibited from actually collecting federal income taxes. As a result, the contractors are only providing certain support activities to IRS collection, not really collecting debts in the normal sense of the word. Added to this is the extreme complexity of IRS tax accounts, which are very active (not static like most commercial or consumer debt ac-

counts). Unlike most debt collection contracts, the IRS contracts cannot incorporate a clean handoff of delinquent accounts to the contractors and a clear separation between the contractors' work and the work necessary by IRS employees to support the contractors. As already mentioned, IRS employees have become involved in 63 percent of the contacts made by its contractors.

—Availability of inventory: after reducing the raw inventory available in the specified categories of work to eliminate cases that exceeded the contractors' authority or ability to work (for example: bankruptcies, deceased taxpayers, open criminal investigations, delinquent filers, and many other filers), and after further setting aside a large number of qualifying cases for evaluation as a control group, the IRS almost exhausted the inventory available for contractors in the IRS Western Region.

—A larger than anticipated number of cases (almost 25 percent) were recalled from the contractors after assignment due to changes of case status in IRS (for example, cases closed by refund offset). Unlike commercial debt, IRS debt is not static: controlling and tracking cases while they are assigned to the contractors has been a significant challenge for the IRS data processing support functions.

Question. What has IRS learned from this pilot that could help it improve the collection of other accounts?

Answer. The experience reinforces some insights contained in the IRS modernization plans that automated skip tracing tools and telephone management devices (such as predictive dialers), have the capacity for greatly enhancing productivity in out-call operations. We also plan to examine possible "best practices" with contractors to see if they would improve current methods.

Question. Are there any legislative or other changes needed to improve the use of private debt collectors?

Answer. Analysis of the current pilot will be completed September 30, 1997, and may provide data that will be useful in responding to questions of this nature. Many legislative or regulatory changes could be considered that might facilitate private sector collection of IRS tax debts but the IRS does not advocate the desirability of any specific changes without full analysis of the results of test data and full consideration of policy, public perception, and administrative implications.

Question. For fiscal year 1998, does IRS plan any changes in the pilot program? If so, please discuss these changes and why they are being considered.

Answer. No. The pilot program was terminated at the end of the first year of operations.

10. Over the past several years, IRS has studied various ways to reengineer and modernize its process for collecting delinquent taxes.

Question. What major changes have been implemented as a result of these studies?

Answer. The IRS has implemented a number of changes to its processes and procedures to improve tax collection over the last few years. Some significant initiatives and changes include:

—Integrated Collection System—Revenue officers, managers and support staff use laptop computers to provide current information and automated case processing for account delivery, research, collection and forms generation.

—Entity—provides automated taxpayer based reporting and case management.

—Repeat Delinquent Taxpayer Program—identifies delinquent trust fund taxpayers who have a history of repeated delinquency and whose actions warrant more aggressive collection action by revenue officers.

—National Telephone Research—This contract provides the most efficient and economical method of performing telephone number research that is vital to ACS.

—Early Intervention—Two individual notices and one business notice have been eliminated from the collection process. This results in earlier telephone contact with the taxpayer and accelerated collection of accounts.

—Notice Redesign—The IRS has changed the appearance and text of their bills. In tests at two sites, the use of a credit card type notice was more effective in generating revenue than the traditional notice.

—Collection Financial Analysis—New procedures that use national and local expense standards were adopted. Studies and input from the private sector indicate that the expense standard method will ensure that allowed expenses are not inflated and that payment is maximized.

—Collection Appeals Process—This process provides a vehicle for taxpayers to appeal specific collection actions quickly.

Question. Does IRS have a comprehensive strategy for making collection programs more effective and efficient?

Answer. Collection's emphasis is on helping taxpayers resolve their account problems, especially in those situations where they may be first-time delinquents. How-

ever, in those situations where taxpayers repeatedly fail to comply with filing, depositing, and paying requirements, innovative enforcement techniques are encouraged to achieve compliance with our tax laws. There is an obligation to ensure that collection tools are used effectively, fairly and timely.

Collection has a number of actions in place or underway to increase yield and limit the growth of accounts receivable. We are focusing efforts on changing workflow, procedures, culture, management information and automation. As part of our effort to progress beyond traditional collection methods, we are looking at ways the private sector handles debt collection.

Question. What are the IRS' long term goals?

Answer. Some of the IRS' long term goals are: Increase total collections; reduce taxpayer burden; continue emphasis on quality case dispositions; resolve taxpayer inquiries at first contact; increase productivity; and reduce overall collection costs.

Question. What changes does IRS plan to make over the next two to three years to implement these goals?

Answer. Some changes that the IRS is planning to implement these goals are: Redesign of the revenue officer occupation; analysis of the offer in compromise process; implementation of customer service; integration of ICS and entity; and development and implementation of the IDS.

Question. What information systems support, both directly and indirectly, the collection function? Does IRS plan to continue developing or implementing these systems in 1997 and 1998?

Answer. ICS directly supports the collection function and provides automated case processing for revenue officers, managers, and support staff. ICS began nationwide implementation in fiscal year 1995 and is in production in 9 of the 33 consolidated districts. Implementation is scheduled to complete nationwide roll-out to the remaining 24 districts over the next two years, budget permitting. Collection is also dependent upon the IDRS, Masterfile, and ACS.

Question. What are the objectives of these systems and when does IRS expect them to be fully operational?

Answer. Collection uses these systems for account management. ICS is operational in 9 of 33 districts. ICS implementation is scheduled to complete nationwide roll-out to the remaining 24 districts over the next two years, budget permitting.

Question. Has IRS discontinued any systems development in the collection area in fiscal year 1996 or 1997? If so please describe these systems and funding provided for 1996 and 1997 for these systems?

Answer. Yes (to some degree). Based upon the need for more documentation and consistency with the Modernization Architecture and Sequencing Plan, IRS inactivated a prototype for its Collection Inventory Delivery System (IDS). The focus is to address IDS's full functionality as part of the Service's modernization plan presented to Congress, while delivering core functionality in the interim. Three major IDS components are being developed now. The expected benefits of these three components should approach $500 million annually.

COMPLIANCE RESEARCH

1. For over 20 years, taxpayers' compliance in paying taxes owed, both voluntarily and after IRS enforcement, has hovered around 87 percent. IRS has set a goal of reaching 90 percent compliance by the year 2001.

Question. What has IRS done to improve compliance, and what else is needed to ensure that 90 percent compliance is attained by 2001?

Answer. The IRS has undertaken a new approach to strategic business planning for its three Operations business lines: Submission Processing, Customer Services and Compliance. In fiscal year 1997, we issued the first Compliance Plan which linked Compliance activities with our strategic goal to "Increase Compliance." Also in the fiscal year 1997 Compliance Plan, we identified, primarily through our research activities, seven national compliance strategies which target specific taxpayer populations. We plan to use cost-effective "wholesale" approaches in which large groups of noncompliant taxpayers are addressed through a single application of resources to encourage or enable them to comply voluntarily, rather than correcting this noncompliance through traditional, costly face-to-face enforcement techniques. However, reaching the goal of 90 percent collection of total tax liabilities by 2001 may be out of reach.

Question. How does IRS intend to increase voluntary compliance with an audit rate that is projected to decline from 1.63 percent in fiscal year 1996 to 1.17 percent in fiscal year 1998?

Answer. The IRS' new authority to treat returns with missing or invalid dependent Social Security Numbers (SSN's) as math errors accounts for a significant por-

tion of the decrease in audit coverage. Previously, returns with missing or invalid SSN's could only be adjusted—if the taxpayer could not provide a valid SSN—through an audit; thus, these were included in audit coverage. Currently, returns with missing or invalid SSN's are adjusted—if the taxpayer does not provide a valid SSN—as math errors. Math error adjustments are not currently included in audit coverage. We intend to replace traditional face-to-face audits in some market segments with new compliance strategies which will effectively increase voluntary compliance through alternative treatments. As a result of research activities, we will improve our workload selection and compliance treatments, saving costly one-on-one enforcement for the most egregious cases. We believe this application of resources will have a beneficial effect on compliance.

2. IRS implemented its new Compliance Research and Planning Approach to address concerns about continued noncompliance with the tax laws and the large income tax gap. The new approach involves, to a large extent, researching ways to improve compliance for entire market-segments—specific groups of taxpayers who share certain characteristics or behaviors—and using research results in ongoing compliance programs.

Question. What is the current status of the new Compliance Research and Planning Approach in developing, testing, and implementing wholesale solutions to noncompliance?

Answer. Of the eighty national compliance research projects underway, seventeen have advanced to the stage of studies which, by identifying major causes of noncompliance, will develop treatment hypotheses for testing in the coming year. Five projects are now testing treatments. Two projects have reported findings of successful treatment tests and are ready to be considered for national implementation. Based on earlier research that indicated a substantial degree of inadvertent noncompliance, both of these projects—one dealing with self-employment tax reporting compliance and the other dealing with duplicate use of dependent Social Security Numbers—have relied on nonenforcement techniques (i.e., "reminder" letters to taxpayers) to address the specific forms of noncompliance. Tests results indicate the potential of these treatments as low-cost, high-impact solutions to these forms of noncompliance among these taxpayer groups. However, it should be recognized that continued budget reductions will ultimately have an adverse impact on the IRS' ability to reach its compliance goals.

Question. How is IRS assessing the effectiveness of the Compliance Research and Planning Approach?

Answer. In general, the effectiveness of the Compliance Research and Planning Approach will be assessed in terms of increased revenue and improved compliance for a lower resource investment. More specifically, however, the effectiveness of compliance research is measured in terms of its moving from profiling a market segment and testing non-enforcement treatments to successful implementation. Initiatives proposed for implementation are arrayed against each other and against traditional enforcement activities and adopted when they prove more cost-effective. Compliance research is, therefore, effective to the extent that it is actually implemented after having "competed" against alternative resource investments. For example, based upon research findings that significant noncompliance on the part of certain sales personnel in their reporting of sales incentives was due to an internal regulation, the Chief Counsel organization is in the process of revising and clarifying this regulation.

Question. How is IRS ensuring that the necessary data can be collected and tracked?

Answer. The Compliance Research and Planning Approach applies to each research initiative a systematic and uniform method of profiling, developing and testing with resultant baseline data. Subsequent wholesale implementation will have resultant data captured in the IRS Alternative Treatment Revenue reporting mechanism. In addition, IRS has submitted a Modernization Blueprint that includes system requirements to capture and track the data needed for realizing the Compliance Research and Planning Approach.

Question. What impact will the new research approach have on planning compliance workload and resources across all IRS functions and programs?

Answer. Traditionally, the Service has planned and allocated resources based on functional goals which were developed independently. However, the key to our new approach is to equalize marginal revenue to marginal cost across all Operations functions, programs and geographic locations, thereby maximizing revenue collections. Through our integrated planning process, each functional area will compete for resources with other areas and with new compliance strategies identified through our research efforts. Resources will then be allocated to those areas to equalize marginal revenue to marginal cost, after allowing for minimum presence

in each segment of the population. Ultimately, we expect that the allocation of resources among our three business lines will be much different than it is today.

Our research efforts will provide us with the modeling tools and supporting data to make these determinations. In addition, our profiling, studies and tests will produce new strategies that will successfully compete with our traditional operations. Improved access to data and more sophisticated analysis will enable us to select better workload for all our functions, making our operations more efficient and productive.

Question. How does the research vision and the new research approach relate to the agency's strategic objectives and overall mission?

Answer. The IRS Mission states that we collect the proper amount of tax at the least cost and continually improve the quality of our products and services. Closely related are our strategic objectives to "Increase Compliance" and "Improve Customer Service." Compliance Research supports these through a four-tiered prioritized strategy:

(1) Ensure that those taxpayers who are currently complying continue to comply. This represents our taxpayer base; in order to build on it, we must ensure it doesn't erode.

(2) Enable that those taxpayers who are trying to comply to do so. We must provide the tools to enable these taxpayers to comply. We believe an effective means for doing this is through education, outreach and informational notices designed for targeted populations.

For these first two tiers, improved access to customer services and the quality and simplicity of our taxpayer education efforts will be key elements in our success.

(3) For taxpayers who neglect or refuse to comply, our preferred treatment is "upstream" enforcement efforts initiated by telephone or through correspondence. The Automated Collection System, Correspondence Examination and Document Matching Activities have our best rates of return, maintain the highest productivity and are the least intrusive of our enforcement operations.

(4) When these avenues are exhausted, or for those taxpayers for whom "upstream" enforcement is not appropriate, we will continue to maintain a leaner, better-targeted face-to-face enforcement program. Since these operations are the most costly, they will be reserved for the most egregious cases. While the rate of return is not as high as "upstream" programs, the rate of return for face-to-face programs is still profitable.

Question. Are there any linkages between the micro-level research of noncompliance among market segments and the macro-level agency goal to increase compliance and decrease the tax gap?

Answer. Yes. Selection of market segments for further research is primarily determined by ranking their compliance (or noncompliance) based on, in particular, estimates of underreported tax liability. These estimates are obtained from various sources. Underlying most of these sources are the results of prior TCMP surveys. As research on these market segments is completed, IRS plans to implement successful treatments to increase compliance through its Operations Plan.

3. In 1995, IRS postponed its Taxpayer Compliance Measurement Program (TAMP). Since the 1960's, TAMP has provided statistically valid data for use in measuring taxpayer compliance and in updating the discriminant function (DIF) formulas used to score returns as to their audit potential. The last CMP covered tax year 2988.

Question. Without TCMP, what data does IRS have to measure overall tax compliance and update DIF formulas?

Answer. Last fall the IRS contracted with an outside expert to review its approach to gathering compliance data and to recommend viable options to the traditional TCMP approach. The outside expert found that, in order to continue to measure overall tax compliance and associated tax gaps and to update the Service's DIF formulas, there is no substitute for the data from a TCMP-type program.

Question. Does IRS have any plans for ways to measure overall compliance?

Answer. Since the TY1994 TCMP was canceled, we have devoted substantial effort to investigating relevant potential options for capturing reliable compliance information as an alternative to TCMP. After considering a wide range of methodologies, we have concluded that there is no feasible alternative to audits of randomly selected taxpayers if we hope to obtain accurate measures of voluntary compliance. We procured the services of a consulting services firm to reassess the program options available to us by investigating any and all relevant data capture options to meet the compliance data needs of our stakeholders. This firm, as well, concluded that there is no alternative to audits of randomly selected taxpayers. However, the budgetary constraints which led to the postponement of TCMP continue and are not

likely to diminish in the foreseeable future. At this point there are no plans to conduct a TCMP survey.

Question. Does IRS have any plans for ways to update DIF?

Answer. Existing DIF formulas were derived from data from the most recent TCMP surveys—1987 returns for corporations and 1988 returns for individuals. Certain revisions of DIF formulas resulting from major changes in the tax laws are implemented between TCMP surveys as needed to reflect the impact of law changes on the relative ranking of returns. These formula revisions are not considered updates of the DIF Formulas. Only data from complete TCMP examinations of randomly selected returns can serve as the basis for DIF formula updates.

Question. Does IRS have any plans for ways to replace DIF with an objective audit selection system?

Answer. IRS has conducted significant research on alternatives for developing workload selection systems as replacements for DIF and will continue its research efforts in this area. However, none of the techniques that have been identified and investigated were shown to perform better than, or even as well as, DIF.

4. IRS' budget submission mentions that IRS is developing research programs to assist in improving its compliance operations.

Question. Can IRS provide us with details on how these research activities will assist in the collection of delinquent taxes?

Answer. IRS is actively involved in a number of research activities to improve the effectiveness of its collection activities. The ARDI Expert System, currently under development, is a "next generation" workload selection and prioritization system, the goal of which is to predict the disposition and collectability of accounts receivable. IRS has entered into a partnership agreement with the Idaho National Engineering Laboratory (INEL) to jointly develop a "next generation" process optimization system to begin the process of designing optimal work processes for accounts receivable. IRS will be announcing shortly a contract to acquire the assistance of outside consulting firms to develop workload selection systems for accounts receivable to compare against our internal systems.

Question. Also, because prevention is the best way to deal with delinquencies in the first place, can IRS provide details on how the research activities will help in developing prevention programs?

Answer. IRS has been involved in a number of research efforts to develop accounts receivable prevention strategies. The FTD Alert program is being analyzed to determine its effectiveness in identifying potential FTD receivable problems and resolving these problems to prevent a taxpayer from generating an account receivable. In the fiscal year 1997 Compliance Plan, we are implementing the first seven National Compliance Strategies, many of which have a delinquency prevention component. Among the most important:

—We have identified high-income nonfilers who were brought into compliance during the fiscal year 1993–94 Nonfiler Strategy and have now become delinquent again. Using the data acquired from these cases, our research activities will profile the characteristics of these nonfilers, then develop and test treatments to prevent them from becoming delinquent a third time.

—We estimate that unreported tip income approaches $9-$13 billion annually. Through the use of Tip Reporting Alternative Commitment (TRAC) agreements, employers put improved tip reporting mechanisms in place and withhold taxes. This project has been worked in some local jurisdictions for several years and has been quite successful. The current effort seeks to integrate Servicewide efforts under the umbrella of one strategy. TRAC's reduce the need for resource-intensive, low-yielding tip audits.

Question. What, if any, prevention programs have been started as a result of these research activities?

Answer. All of the activities described in response S610 are preliminary research efforts. These studies must be completed, tested and implemented before any programs can be initiated.

DISPUTE RESOLUTION

1. Every year, IRS must attempt to resolve thousands of disputes with taxpayers over tax liabilities. Traditionally, IRS has done this through its Office of Appeals.

Resolving disputes through the Office of Appeals takes a long time and is costly to both the IRS and the taxpayer. Since the early 1990's, the IRS has been attempting to implement various alternative dispute resolution methods to improve the cost-effectiveness of dispute resolution within the IRS as well as to reduce the burdens and costs imposed on taxpayers, particularly corporations.

Question. How frequently has IRS used these alternative dispute resolution methods? What have been the specific impacts of these methods on the cost, time, and burden of dispute resolution and on the amount of tax assessments?

Answer. ADR Program Results:

Early Referral: The early referral process, including employment tax, has been used in 45 Appeals cases, involving approximately $7.3 billion in proposed adjustments, and thus far has resulted in approximately $3.5 billion in agreed adjustments.

Simultaneous Appeals/Competent Authority: Three simultaneous Appeals/competent authority cases have been completed. There are sixteen other cases in process, involving approximately $1.1 billion in proposed adjustments.

Mediation: Since the inception of the mediation program, twelve requests for mediation have been made. Five requests were denied because they did not meet the mediation criteria. Two mediation cases, involving approximately $170 million in disputed adjustments were successfully resolved. This resulted in approximately $80 million in agreed adjustments. Five mediation cases involving about $622 million in disputed adjustments are in process.

ADR Impact: The responses to our customer satisfaction surveys reveal that both the early referral and simultaneous Appeals/competent authority procedures have helped taxpayers resolve their cases more quickly than using the standard procedures. Also, taxpayers responded that they saved money by using mediation instead of having to litigate the issues. Appeals ADR initiatives offer prompt and less expensive methods for taxpayers to resolve their disputes after good faith negotiations have failed in Appeals or agreement cannot be reached with Compliance. When any of these programs enable the taxpayer and the IRS to reach agreement, burdens and costs to both of them are reduced.

Appeals Process: It is important to keep in mind that most tax controversies are resolved through the time-tested successful Appeals negotiation process. In fiscal year 1996, Appeals closed 67,628 cases, of which more than 87 percent were agreed by both sides. We sustain approximately 30–40 percent of what Compliance recommends because we do provide taxpayers the opportunity to present their case and resolve cases in a fair and impartial manner. The administrative Appeals process is cost effective for taxpayers in relation to the alternative of litigating issues. If we were to add a mediator to this process, the costs to the taxpayer and the government would be prohibitive. Appeals will continue to function as a mediator for both the government and the taxpayer at the least cost possible. In fact, 66 percent of all the cases we consider are handled directly with the taxpayer, while 34 percent employed a tax professional to represent them. While there are relatively few taxpayers using the ADR initiatives, these cases involve a significant amount of the dollars in Appeals inventory. As a result, Appeals ADR processes initially focused on the cases that involve the majority of disputed dollars coming into Appeals.

BRIEF DESCRIPTION OF APPEALS ADR PROCEDURES

Early Referral.—Early referral procedures, contained in Revenue Procedure 96–9, expedite Appeals consideration of key issues that are "unagreed" (the taxpayer does not agree with the proposed examination adjustment). Appeals officers begin reviewing the unagreed issue while the examination of other issues continues, allowing for the possible settlement of key unagreed issues, and possibly closing the entire case in the Examination function, reducing costs for the taxpayer and the IRS.

Although the early referral program was initially limited to Coordinated Examination Program cases, in Announcement 96–13 the IRS extended the early referral provisions to employment tax issues on a one-year test basis. Announcement 97–52 extends the test of the procedures for early referral of employment tax issues for an additional one-year period beginning on May 27, 1997.

IRS examiners now consider the taxpayer's eligibility for employment tax relief under section 530 of the Revenue Act of 1978 before initiating any examination of the relationship between a business and a worker. Taxpayers that disagree with the District's determination regarding the application of section 530 have the option of immediately requesting early referral of the issue from the District to Appeals.

Simultaneous Appeals/Competent Authority.—Section 8 of Revenue Procedure 96–13 allows a taxpayer who has filed a request for competent authority assistance to also request simultaneous Appeals consideration of the competent authority issue. The procedure encourages taxpayers to request competent authority assistance and the participation of Appeals while a case is under Examination jurisdiction

Mediation.—The IRS recently conducted a one-year test of mediation procedures for large cases in Appeals. Mediation is used later in the administrative process,

after good faith negotiations have failed to produce resolution. Factual issues, such as valuation and transfer pricing issues, are appropriate for mediation.

Announcement 97–1 extends the test of the mediation procedure set forth in Announcement 95–86 for an additional one-year period beginning in January 1997. Appeals will try mediation in more cases so that the program can be further evaluated.

2. In an effort to speed up and reduce the cost of dispute resolution, Congress enacted a law that encouraged federal agencies to begin using independent third-party mediators to resolve disputes. IRS has offered only one dispute resolution technique involving an independent third party, which comes at the end of settlement efforts by the Office of Appeals.

Question. Is IRS planning to introduce the use of third-party mediators earlier in the process, and if so, when?

Answer. Yes, based upon current customer satisfaction survey data, we anticipate expanding mediation to cases or issues involving at least $1 million in dispute.

The mediation procedure in Appeals was specifically designed to be used at the end of the administrative process, as a final attempt to resolve a dispute before litigation. Appeals has built a strong record of success through our standard techniques of dispute review and conferencing. Most tax controversies are resolved through the time-tested successful negotiation process of the Appeals conference. Very few cases are litigated—about 1,200 in any given year. During fiscal year 1996, Appeals closed 149 cases where more than $10 million or more was in dispute. Only 15 of these cases were closed unagreed. The vast majority of cases are, therefore, successfully resolved without the need for any additional resources. The IRS' and taxpayer's cost for using an outside mediator is approximately $5,000 each. If we were to introduce mediation earlier in the process, it would only serve to extend the lapse time of the cases since it would be introduced prior to a failure of good faith negotiations. It would also add costs to the process, especially for the taxpayer since they would have to spend additional funds to mediate a case.

Introducing mediation before good faith settlement negotiations have occurred, could serve to jeopardize the Appeals process. We must be careful to not dismantle an administrative appeals system that continues to serve the government well, and in our opinion is the premier alternative dispute resolution process in government. If the costs of adding additional mediators to the process were instead used to hire additional appeals officers, we could have an immediate impact on reducing lapse time. Our lapse time is a direct result of our efforts to work with the taxpayer to provide the necessary documentation and oral arguments in support of the position taken, to grant the government equal time to rebut the taxpayer's position or bolster its case, and finally to make an informed decision based upon a reasonable effort to obtain all appropriate documentation.

Mediation is limited to CEP cases assigned to Appeals Team Chiefs. Taxpayers can use the mediation procedures in conjunction with early referral; however, early referral has a broader application and is available for all CEP cases. After early referral negotiations are unsuccessful, taxpayers are able to then request mediation if the early referral issue satisfies the mediation criteria. By combining the two procedures, taxpayers may be able to expedite their resolution. Appeals is considering expanding the mediation process to cases or issues involving at least $1 million in dispute.

3. During the last few years, the IRS has developed some additional techniques for resolving or avoiding tax disputes that, except for one, do not include a third-party mediator. Most of these techniques, including the one involving a third-party mediator, are targeted toward large corporations.

Question. When does IRS plan to develop other dispute resolution techniques that are targeted toward (1) other corporations and (2) individual taxpayers-those that can least afford a lengthy appeals process?

Answer. Appeals is expanding our ADR programs as follows:

FOR CORPORATIONS

Mediation.—Appeals is considering expanding the mediation process to cases or issues involving at least $1 million in dispute, if an issue can't be resolved through either the early referral process or the normal Appeals process. Cases over $10 million in dispute that currently qualify for mediation account for only 1 percent of the inventory in Appeals, but 88 percent of the dollars in dispute. Cases over $1 million in dispute are 4 percent of the inventory, but 95 percent of the dollars.

Employment Tax.—Announcements 96–13 and 97–52, allow taxpayers whose returns are being examined to request early referral of one or more employment tax issue(s) from district compliance functions to Appeals. The purpose of early referral for employment tax issues is to resolve them more expeditiously through simulta-

neous action by the District and Appeals. These announcements are part of the IRS' strategy designed to improve employment tax administration for all taxpayers, including those who are small business owners. The program will be reviewed when the two-year test concludes in May 1998.

International Penalties.—Appeals is considering extending the concept of the early referral procedures contained in Rev. Proc. 96–9, by providing for an expedited appeal of the following penalties: Internal Revenue Code Sections 6038(b), 6038A(d), 6038B(b) and 6038C(c), which are not subject to deficiency procedures. This expedited referral procedure will allow taxpayers an administrative appeal prior to the payment of the penalty.

FOR INDIVIDUALS

Bankruptcy Appeals Program.—Appeals is in the process of developing a dispute resolution program to assist taxpayers in resolving IRS-related bankruptcy disputes. Under current procedures, once the Collection Division takes enforcement action against a taxpayer, the taxpayer's recourse is often just filing for bankruptcy. The proposed Bankruptcy Appeals Program would provide an informal hearing with Collection, which, if not resolved, would then allow the taxpayer to move the dispute to Appeals for consideration. The issues that will be considered under the program will initially be limited to dischargeability determinations (other than when the Service asserts fraud under B.C. § 523 (a)(1)(C)), proof of claim and administrative claim issues, automatic stay violation issues, off-set and refund issues, and preferences. The program will serve to reduce taxpayer burden since it will be simple to use, will process disputes quickly, and will give Appeals authority to reach agreements with taxpayers.

Collection Appeals Program.—The Collection Appeals Program (CAP) started in April 1996. This program allows taxpayers to appeal lien, levy or seizure actions proposed by or made by the Service. Before this time, the only opportunity a taxpayer had to appeal these actions was through the Collection manager and up through Collection's chain of command. This is the first time in the history of U.S. taxation that an appeal on these Collection actions through an independent organization such as Appeals was possible. On January 1, 1997, appeals of installment agreements proposed for termination were added to the program. This installment agreement appeal right was provided for in the Taxpayer Bill of Rights 2 and the Service decided to add it to CAP.

Any taxpayer may request an appeal. Appeals is expected to reach a decision on these appeals in five days. This is to ensure that taxpayers who are anxious for a decision will have one quickly and also to ensure that taxpayers who are simply trying to delay collection will not be able to do so.

During the first year of CAP (through March 31, 1997), approximately 1600 cases were received by Appeals. Approximately 90 cases were open in Appeals on March 31, 1997.

Appeals Protest Form.—Appeals is developing a protest form which taxpayers and their representatives have told us would facilitate the Appeals process and assist us in reducing time, cost and taxpayer burden. We expect to begin testing this form in early 1998 for all Service Center generated correspondence examinations where the current process precludes a taxpayer from requesting an appeal prior to the issuance of a statutory notice of deficiency and the filing of a petition with the Tax Court. We expect the use of this protest form will significantly reduce the time span to resolve these cases in Appeals, the taxpayer costs associated with filing a petition, and the taxpayer burden in using the Appeals process.

TRACES.—Appeals has initiated a review of Appeals functions and processes to come up with new, key performance indicators that will foster continuous improvement and provide improved customer satisfaction. These key performance indicators are known as "TRACES" and were developed for: Timely, Responsive, Accurate, Complete Service, Education, and Sustention Rate. These key factors focus on providing better products and services by reducing cycle/lapse time, providing prompt hearings for taxpayers and making settlements that are fair, impartial, and technically/procedurally correct.

Customer Satisfaction Surveys.—Appeals conducts ongoing reviews of our programs through the information we receive from our customer (internal & external) surveys, including performance indicators for each program. The information from these surveys allow us to find ways to improve our services.

INFORMATION SYSTEMS

IRS' fiscal year 1998 budget request includes $1.27 billion for Information Systems, of which $1.14 billion is for Operational Information Systems and $0.13 billion

is for Developmental Information Systems. The following questions relate to that portion of IRS' request.

1. *Question*. Although the IRS has taken some steps to correct management and technical weaknesses and more recently began to put the brakes on TSM development spending, what does IRS plan to do now to get the modernization back on track? Also, precisely which system development projects have been halted? Does this mean funds appropriated for these projects can be rescinded until further action is resumed? If not, why not? What impact does the spending halt have on the fiscal year 1998 request for these projects?

Answer. The IRS has taken a number of steps in fiscal year 1997 to get Modernization back on track. These initiatives include, but are not limited to:

—Recruitment of the Associate Commissioner for Modernization/Chief Information Officer to provide the single point of authority, responsibility and accountability for Modernization activities;

—Development and implementation of a Systems Life Cycle that is consistent with Military Standard 498 and best practices used by world class technology firms that provide the procedures and controls required in large scale development efforts;

—Establishment of the Government Program Management Office to serve as the nexus for Modernization activities and provide day to day management of contractor and IRS development staff;

—Review of fiscal year 1997 active projects, resulting in the Investment Review Board approval to eliminate and/or consolidate twenty-six projects down to the technically feasible and maintainable nine;

—Development and timely issuance of the Modernization Blueprint, which serves as the baseline for Modernization and includes the Business Requirements, Functional and Technical Architecture and Sequencing Plan for a phased implementation; and

—Recruitment of ten senior technology executives to strengthen and improve the overall management of modernization efforts, including management of contractors.

The systems development projects that were halted include the Corporate Accounts Processing System (CAPS), Workload Management System (WMS), Document Processing System (DPS) and the Integrated Case Processing System 2.0 (ICP). The review of all projects was completed in March 1997.

The funds that had been allocated to these projects in fiscal year 1997 would be applied to continuing initiatives including Telefile, Inventory Delivery System and National Call Routing.

All projects that remain active are characterized as Stay in Business initiatives and are included in the fiscal year 1998 budget request. Failure to fund these initiatives in fiscal year 1998 would have significant impact on the Business organizations.

2. Because of IRS' poor track record in developing automated system software, Treasury and IRS plan to rely more on private sector software development contractors. For example, Treasury is drafting a request-for-proposal for a "prime contractor" to perform and oversee all TSM software developmental efforts. In addition, IRS recently provided a plan to the Congress outlining how IRS planned to shift more system development tasks to private sector contractors. However, IRS has not had a good track record in managing contractors as evidenced by IRS' recent attempt to use contractors to acquire Cyberfile, which resulted in IRS spending over $17 million without fielding any of the system's promised capabilities.

Question. What is IRS doing to ensure it has the capability to effectively manage software development contractors?

Answer. The IRS has consolidated the management of all contractor activity into the Government Program Management Office (GPMO) which reports to the Associate Commissioner for Modernization/Chief Information Officer. This Office will manage the Modernization program and be staffed primarily by contractor technical management.

The GPMO has been instrumental in building the "team readiness" that will be required for the IRS to be a successful partner in Modernization, including development of the framework required for management of contractors. Actions taken in fiscal year 1997 include but are not limited to:

1. Systems Life Cycle which is based on Military Standard 498 and consistent with best practices employed by world class technology institutions. It is through the SLC that accountability, authority and responsibility will be assigned to all facets of the IRS and contractor community for system development activity. The day to day management of SLC activities is the responsibility of the GPMO. The Sys-

tems Standards and Evaluation Office (SSE), reporting to the CIO, is responsible for on-going monitoring and evaluation of conformance to the SLC.

2. Modernization Blueprint which defines the Business Requirements, Functional and Technical Architectures and Sequencing Plan for a phased implementation. The Blueprint was developed in partnership with the IRS Integration Support Contractor (ISC).

The Blueprint is defined through Level II of a four level architectural framework and serves as the baseline for future contractor development efforts. Responsibilities for Level III and IV are as follows:

—Level III to be performed by either the IRS and ISC (Phase I of the Sequencing Plan) or the PRIME Integration Services Contractor, managed by the IRS (Phase II–V of the Sequencing Plan).

—Level IV to be performed by sub-contractors and managed by the PRIME.

3. Request for Comments (RFC) for Modernization Prime Systems Integration Services Contractor (issued in conjunction with the Blueprint) to enter into a strategic partnership with a PRIME Integration Services Contractor to undertake a major Modernization with the IRS.

Among the criteria for acquisition of the PRIME is the requirement that the PRIME maintain a software acquisition CMM Level 3 Certification or mutually agreeable equivalent standard. This capability will ensure that the management and development processes required to undertake an initiative of this size, including the management of sub-contractors, are in place .

Question. What assurance can IRS provide the Congress that contracting out will result in delivery of promised system capabilities on time and within budget?

Answer. The IRS does not have the internal capability to complete Modernization alone, nor does the contractor community have the capability to complete Modernization alone. It is through a public/private partnership that the IRS will leverage the expertise of both the government (e.g., knowledge of the existing systems) and the contractor community (e.g., technical design and build capabilities) to provide the capabilities required.

There are three critical organizational entities with responsibility for ensuring investments in information technology are sound and that development is proceeding within budget and schedule parameters:

1. Investment Review Board—Investment decisions would follow the Systems Life Cycle (SLC) development approach adopted by the IRS Executive Committee in November, 1996. This approach requires completion of business requirements, engineering analysis, and a business case documenting costs, benefits and risks associated with each proposal consistent with ITMRA and "RAINES" Rules. These steps must be completed prior to funding decisions by the Investment Review Board. The IRB consists of both IRS and Treasury executive management.

2. The SLC provides for a Modernization Management Committee (MMC), chaired by the Associate Commissioner for Modernization/Chief Information Officer, responsible for reviewing budgetary and schedule issues that would not normally be handled by the IRB. These reviews would be supported by the GPMO Program Management and Control Division, responsible for managing and monitoring the Modernization Management Plan.

3. The Department of Treasury IRS Management Board and the Treasury Investment Review Board have oversight responsibility for IRS information technology investments. It is through these boards that the Department evaluates major IRS initiatives (e.g., PRIME Request for Comments, Modernization Blueprint) and monitors program performance.

3. The Administration has proposed creating an Information Technology Investments Account and funding it with $1 billion—$500 million to be appropriated in fiscal year 1998 and another $500 million in fiscal year 1999. The goal of creating such accounts is to ensure that agencies request full funding in advance for the entire cost of a capital project so that the full costs are known at the time decisions are made to provide resources. In establishing these accounts, the Office of Management and Budget requires that 1) the capital assets support the agency's mission, and 2) the assets have demonstrated a projected return on investment (ROI) that is clearly articulated.

Question. What investment does IRS plan to make with the $1 billion? How did IRS develop the justification for the $1 billion, and what are the ROI's for each of the planned investments?

Answer. On May 15, 1997, the IRS completed the Modernization Blueprint, Architecture and Sequencing Plan. Business Cases for the Modernization Blueprint, Phase I are scheduled to be completed in October 1997. The $1 billion represents an advance-funded account. This funding will allow the IRS and the selected Prime Contractor to complete the detailed planning for the next phase of Modernization.

Question. How will these investments support the agency's mission?

Answer. The Modernization Blueprint will focus on the development of accessible, secure and authoritative Corporate Data Systems which will support improved customer service. Before funds are expended on these investments, the Investment Review Board will ensure that the projects have been reviewed and the results indicate that the projects are consistent with the Clinger-Cohen Act.

Question. What are the ROI's for each of the planned investments?

Answer. The business cases for Modernization Blueprint, Phase I to be completed in October 1997 will include ROI analyses.

Question. How does IRS know what its investments and associated costs are when re-engineering, business, architecture, and sequencing plans, which will guide IRS' modernization efforts, have not yet been completed?

Answer. We don't yet. On May 15, 1997, the IRS published its Modernization Blueprint, which contains the business requirements, architecture, technical standards and sequencing plans. These data in addition to Phase I Level III analysis to be completed in September, 1997, will be utilized to develop business cases including budgets, schedules and deliverables.

Question. How do Information Technology Investment Account projects differ from those being funded with the $1.28 billion in the fiscal year 1998 request for the development and operation of IRS information systems?

Answer. With the exception of the $130.1 million Development and Deployment component of the fiscal year 1998 budget, the $1.28 billion request is dedicated to Legacy, Operational TSM, Stay in Business and Modernization Program Infrastructure expenses. The Development and Deployment account will fund those Modernization projects which were reviewed and approved by the Investment Review Board. The ISIA account would also fund Modernization efforts.

4. In July 1995 and again in June 1996 and September 1996, GAO identified and reported serious weaknesses with IRS' information technology investment management process. GAO's bottom line was that IRS did not have an effective process for ranking, prioritizing, and selecting its information technology investments.

Question. In light of GAO's finding, please explain how IRS developed the $1.3 billion being requested for information systems in fiscal year 1998. What assurance does Congress have that in developing this request, IRS ranked, prioritized, and selected those projects that will best meet IRS' mission needs?

Answer. With the exception of the $130.1 million Development and Deployment component of the fiscal year 1998 budget, the $1.27 billion request is dedicated to Legacy, Operational TSM, Stay in Business and Modernization Program Infrastructure expenses. The Development and Deployment account is based on business priorities in rank order as follows: Submission Processing; Customer Service; Compliance; and Administrative Systems.

5. For fiscal year 1997, Congress appropriated $89.4 million for various activities, such as the Government Program Management Office, the Modernization Management Board, Systems Life Cycle Development, Architecture Development, Reengineering Studies, and Engineering Infrastructure.

Question. Please provide a description of how the funding of each of these activities has been spent and what results are expected by the end of fiscal year 1997.

Are each of these activities expected to continue in fiscal year 1998? If so, what is the expected funding level, and what is the justification for continued funding for each of these activities? For example, how has the $5 million for reengineering activities been spent in 1997, and how will these activities be continued in 1998?

Answer. The $89.4 million associated with these activities has provided the following results:

Answer. The $89.4 million associated with these activities has provided the following results:

1. Government Program Management Office (GPMO): During fiscal year 1997 this Office has been established and consists of two Divisions; Architecture, Engineering and Infrastructure and Program Management and Control. Additionally, Project Offices have been established to manage the implementation of technology investments for Modernization. This office is responsible for ensuring that the program infrastructure that is necessary for the IRS to move forward with Modernization is in place concurrent with the award of the PRIME Integrated Support Services Contract (10/98). Key deliverables provided in fiscal year 1997 include, but are not limited to: Development of the Systems Life Cycle (SLC); Development of the Modernization Blueprint; Establishment of the Program Office including identification of programmatic interfaces with all IRS organizations; Integrated oversight of all contractor activities; Implementation of the SLC for Stay in Business project offices; Development of a training plan for project managers; Development of the Business Case for Phase I of the Modernization Blueprint Sequencing Plan; Development of the processes/procedures to implement Legislative requirements (e.g., ITMRA, GPRA); Creation and implementation of the Project Disposition Review to provide for the inactivation of projects deemed not viable technically, programmatically, etc. (e.g., Integrated Case Processing 2.0); and Development of a Request for Comment (RFC) for the PRIME Integration Support Services Contractor	$28.047
2. Modernization Management Board (MMB): The MMB has been established as the focal point for review and approval of significant IRS information technology and business initiatives. The Board is convened on a monthly basis and there is consistent interaction between the MMB staff and the IRS. The MMB has been responsible for approval of such items as the Modernization Blueprint, the Feasibility for Outsourcing Submissions Processing and the Request for Comment for the PRIME Integration Support Services Contractor	2.0
3. Systems Life Cycle (SLC): The development of the SLC is being managed through the GPMO in partnership with the IRS' Integration Support Contractor (TRW). To date, all major processes have been defined and the SLC is being used for project development activities (in a controlled environment). By the end of fiscal year 1997, it is anticipated that a training strategy will be in place to deploy the SLC across the IRS, concurrent with the onset of Modernization design activities	8.210
4. Architecture Development: The Modernization Blueprint, which consists of the Business Requirements, Functional and Technical Architecture and Sequencing Plan for a phased implementation was developed and provided to Congress on schedule on May 15, 1997. Activities for the balance of fiscal year 1997 include the development of the Level III requirements and Technical Architecture as well as the completion of the Business Case for Phase I of the Sequencing Plan	17.844
5. Reengineering Studies: Through participation of the Integration Support Contractor (TRW) reengineering activities with the business are on-going. The $5 million requested in fiscal year 1997 for reengineering activities through Tax Settlement Reengineering is not being requested in fiscal year 1998. Business reengineering activities in fiscal year 1998 will be consistent with the Architectures (Functional and Technical and the Sequencing Plan) as defined in the Modernization Blueprint. Additionally, reengineering played a significant role in the creation of the 3,500 Business Requirements contained in the Modernization Blueprint	5.0
6. Engineering Infrastructure: The Engineering Infrastructure has been established through the creation of the Architecture, Engineering and Infrastructure Division within the GPMO. This Division has provided significant input in developing the Modernization Blueprint target infrastructure, including the security infrastructure to be developed as part of Phase I of the Sequencing Plan	22.838
Total	83.939

With the exception of Tax Settlement Reengineering, all of these activities are expected to continue in fiscal year 1998 to ensure readiness for Modernization activi-

ties (as indicated above), including contractor support (i.e., ISC/SETA) and Modernization Infrastructure investments (i.e., Tax Return Data Base conversion).

6. In fiscal year 1997, Congress appropriated $61 million for downsizing the Information Systems staff by about 900. It appears that most of the reductions, especially in the National Office, have occurred through attrition rather than through RIF's and buyouts.

Question. If IRS will not have to RIF or buy out as many Information Systems staff as expected, is it fair to assume that IRS will not need all of the $61 million appropriated for that purpose? If so, how much will IRS need, and how will the rest of the $61 million be used?

Answer. No—IRS will need the money for other purposes. Originally, IRS had proposed using $61 Million for RIF's of IS personnel. A RIF will no longer take place in fiscal year 1997. Of the original $61 Million, IRS has proposed transferring $25 Million of those funds to pay for unbudgeted needs in the Year 2000 Project. The residual $36 Million is being used to pay for various costs related to FTE reductions, including partial year salaries, and costs relating to voluntary separations and buyouts.

7. Question. Is IRS experiencing funding shortfalls for any information systems or Information Systems program activities that will require reprogramming of funds from other sources for fiscal year 1997, and does IRS' fiscal year 1998 budget account for this?

Answer. Yes, IRS is experiencing funding shortfalls in three critical areas in fiscal year 1997: Year 2000 Conversion, Distributed Input System/Remittance Processing Systems (DIS/RPS) Replacement, and Data Center Consolidation. These needs, along with continued increasing operational costs and continued progress on Modernization preparedness, have caused the IRS to reconsider Information Systems needs and priorities for fiscal year 1998. Summarized below are the results of this assessment compared to the budget request.

[Dollars in millions]

Priority	Budget request	Estimate of needs as of June 1997	Over (+) under (−)
Operational Systems	$936.6	$978.0	+$41.4
Stay in Business:			
Year 2000 Conversion	84.9	170.0	+85.1
Data Center Consolidation	.....	157.7	+157.7
DIS/RPS Replacement	44.0	51.9	+7.9
Quality Assurance Testing	7.1	14.3	+7.2
Examination Laptop Replacement	8.0	8.0	.....
Interim Revenue General Ledger System	5.1	5.1	.....
Modernization:			
Modernization Program Management	27.5	36.5	+3.8
Modernization-Infrastructure Investments	28.3	32.1	+3.8
Business Line Investments	130.9	49.5	−81.4
Total Information Systems	1,272.4	1,503.1	+230.7

OPERATIONAL INFORMATION SYSTEMS

1. The fiscal year 1998 budget requests an increase of $4 million for quality assurance.

Question. What has IRS budgeted for and actually spent on quality assurance in fiscal year 1996 and 1997?

Answer. In fiscal year 1996: The Product Assurance Division was allocated 267 FTE and a combined total of $3,016,000 in funds for travel, overtime, ADP, etc.

Actual use in fiscal year 1996 was: 267.8 FTE and a total of $2,294,570 in funding. The unused portion represents funds not used because of a delay in the implementation of the Integrated Test and Control Center (ITCC).

In fiscal year 1997: The Product Assurance Division was allocated 351 FTE and a combined total of $4,055,662 in funds for travel, overtime, ADP, etc.

Projected use through the end of the fiscal year is: 271.9 FTE and $4,431,849 in funding. The division shows shortages in travel, overtime and training. These are projected shortages and the actual will differ.

As noted above, the Product Assurance Division was allocated 351 FTE in fiscal year 1997 but will actually use 271. A recruiting process began in October 1996 in an effort to attract new employees to the division. Announcements for testing analyst jobs at all grade levels were posted in the field and National Office. To date, the division's recruitment effort (through the competitive process) has attracted 57 new testing analysts.

Question. How far will the $4 million increase in fiscal year 1998 bring IRS toward its goal of "full systemic testing of all tax processing systems by January 1, 1999?"

Answer. According to industry standards, the cost of Systems Acceptability Testing should be 30–45 percent of total life cycle resources. At the end of fiscal year 1996, the Product Assurance Division testing staff represented 10 percent of the life cycle resources. The Division is currently at 12 percent—the goal is 30 percent. The $4 million will allow the Division to hire and relocate approximately 65 IRS field personnel which will bring the testing resources to 15 percent of the total life cycle resources.

Question. What additional resources are required for testing changes to systems as a result of the century date change (year 2000) problem?

Answer. The Product Assurance Division has requested $17.1 million in funding for contractors and other support in fiscal year 1997 and $10.2 million in fiscal year 1998. This funding is a component of the Year 2000 request.

Question. Has IRS budgeted for this effort out of it's base level quality assurance budget?

Answer. No, this funding is a component of the Year 2000 request.

Question. If so, how much has been budgeted for fiscal year 1997 and 1998?

Answer. Product Assurance Division requires base staffing of 506 to do full System Acceptance Testing. For fiscal year 1997 and fiscal year 1998, Product Assurance did not increase base needs to perform Y2K testing. Product Assurance utilized 46.2 FTE of existing staffing for Year 2000 testing. This is in addition to contractor needs. When Y2K testing is complete, the 46.2 FTE will revert back to full systemic testing as part of the 506 FTE.

2. IRS' budget request includes an increase of $39 million for the year 2000 problem, which is on top of the $45 million allocated to that effort out of base funds.

Question. IRS' budget request includes an increase of $39 million for the year 2000 problem, which is on top of the $45 million allocated to that effort out of base funds. How does the IRS plan to spend the $84 million?

Answer. The current IRS fiscal year 1998 budget requirement for Year 2000 (Y2K) is $170 million. This is made up as follows:

Conversion and Testing Staff Costs	$59,000,000
Telecommunications	15,000,000
ADP Equipment	13,000,000
COTS (mostly Operating Systems) Software	17,000,000
Y2K Project Office/Program Management Support	9,000,000
Year 2000 Certification (Product Assurance)	7,000,000
Plus contingency amount (expected increases) of	50,000,000
Total fiscal year 1998 Budget Requirement	170,000,000

Conversion, testing and certification costs will guarantee the accuracy and completeness of system changes prior to production; ADP equipment, software and telecommunications costs will replace currently non-compliant inventory; and the contingency amount of $50 million is based on the following:

—In many areas the IRS is still in the early stages of analyzing the impact of the year 2000. The IRS may uncover significant requirements in the future, such as systems which need major overhauls to be made Y2K compliant.

—There is still much uncertainty as to what can be expected when we exchange Y2K data with external trading partners. This is particularly risky because the IRS has limited knowledge and no control over what processing and systems the partners use to create the data (format is only one factor). The IRS is working diligently to reduce these risks.

—The evaluation of the telecommunications systems is not yet complete. Recently, $8 million in new telecommunications requirements was validated; additional needs/amounts may yet be identified.

—Analysis on minicomputers and personal computers is still underway, particularly the systems that support business owned and locally developed applications. The IRS is concentrating on applications software first and then systems software/Commercial-Off-the-Shelf (COTS) and hardware to determine which upgrades are needed. The IRS expects that significant upgrades will be required

in these categories Service-wide but dollar estimates are not yet available. The areas of greatest concern for these systems are: (1) the need to upgrade to Y2K compliant systems software/COTS releases; (2) older hardware that cannot run with the newer Y2K compliant software and must either be upgraded or replaced; and (3) potential capacity requirements.

Question. Given that many of the costs associated with year 2000 conversion have not yet been determined and that most of the conversion must be completed by the end of 1998, what alternative sources of funding will IRS turn to if additional funds are needed?

Answer. There are very limited alternative sources of funding. One known source is the reprogramming of Modernization (Development & Deployment) no-year and multi-year funds from fiscal years 1990, 1991, 1993, 1995, and 1996 (totaling $44 million) which are still available. Additional funding requests may be submitted to the Investment Review Board and Congress.

Question. How much funding is currently available for reprogramming to support the Year 2000 effort? Where would the IRS take the reprogramming funds from?

Answer. As part of its fiscal year 1997 Appropriation, the IRS has $45 Million available for the Year 2000 effort and $7 Million available for the Data Center Mainframe Consolidation. In addition, $85 Million was requested in fiscal year 1998 for the Year 2000 effort. We are planning to reapply $36 Million of fiscal year 1997 Information Systems funds and we hope to be able to transfer $44 Million in additional funds from prior Information Systems no-year funds and multi-year accounts. These actions would help to alleviate our fiscal year 1997 funding shortfall.

For fiscal year 1998, we have identified our unbudgeted needs for Year 2000 totaling $258 Million, including:

—$85 Million for Year 2000 to bring corporate systems into Year 2000 compliance and avoid risking filing season failure and also to achieve telecommunications and field hardware compliance.

—$15 Million for DIS/RPS Replacements and to strengthen quality assurance by increasing testing of annual programming changes before production releases.

—$158 Million for Data Center Mainframe Consolidation which helps ensure Year 2000 Compliance, increases operational efficiencies, improves safeguards for taxpayer privacy and disaster recovery capability, and positions the IRS for the subsequent implementation of the modernization architectural blueprint.

Question. Does IRS believe that it can address the Year 2000 problem within current funding levels without seriously impacting other areas of its operations?

Answer. No. Without additional funding there would be severe impacts on operational systems support and conceivably necessitate the diversion of resources from Processing, Assistance and Management and/or Tax Law Enforcement programs.

Question. Has the IRS considered the need for a supplemental budget request for fiscal year 1998 for the Year 2000 effort? Have you identified an offset for this supplemental request?

Answer. The IRS is still evaluating its total budget requirement for the Year 2000 project. Until we know what our funding level for fiscal year 1998 will be, and we determine the total costs for the Year 2000 effort, we do not know if we will need a supplemental request.

Question. In addition to the specific funding request for the year 2000 conversion, are other costs associated with that effort imbedded in other parts of IRS' Information Systems budget request? If so, how much?

Answer. In fiscal year 1997, $13 million of labor (approximately 200 FTE's) is being diverted from the IS legacy systems base. The IRS expects that this diversion will be needed in fiscal year 1998.

Question. For example, wouldn't replacement of the Distributed Input System, for which IRS is seeking funds in 1998, help to resolve part of IRS' year 2000 problem?

Answer. Yes, because components of this system are not, and cannot be made, Year 2000 compliant.

Question. IRS' Information Systems organization has apparently experienced significant attrition in the past few months and a planned RIF will apparently further reduce Information Systems staffing, especially in the field offices. How are attrition and the planned RIF affecting/going to affect the year 2000 effort especially if we assume that many of those leaving IRS are persons who would be most knowledgeable about the systems needing conversion?

Answer. Experienced Information Systems (IS) professionals in all areas are in enormous demand to solve Y2K problems. An IRS RIF of IS staff would be counterproductive. It will exacerbate our Y2K problem. The IS industry is moving in the opposite direction from the IRS. It is expanding its IS professional staff in order to solve the Y2K problem.

The IS organization has experienced significant attrition in the past few months due in part to the threat of a RIF. Experienced programmers have transferred to other federal agencies or left federal service to earn higher salaries in the private sector, often working on the Year 2000 problem. This continues to be a problem that could seriously impact the Service's ability to complete its Year 2000 conversion. The Service has adopted a number of approaches to leverage its remaining experienced programmers. Assembler language programming classes have been provided to cross train programmers and analysts. Working under the guidance of IRS programmers, contractors have been hired specifically for Year 2000 conversion efforts. Recently, in an effort to retain its skilled employees, the Service announced a number of its vacancies for Grade 13 technical and team leader positions. This may result in promotions for the selected IRS employees and encourage some employees to remain with the IRS.

3. In the past, IRS has been criticized for not having the information needed to be able to show the additional taxes assessed and collected as a result of its enforcement programs. IRS has been implementing the Enforcement Revenue Information System (EGIS) to provide information on tax assessments and collections as well as other information. IRS' fiscal year 1998 budget request for Operational Information Systems includes a program increase of $7 million for legacy systems, part of which is for EGIS.

Question. How much of the $7 million is for ERIS and what, specifically, will the money be used for?

Answer. The ERIS budget request for fiscal year 1998 is $6.08 million. This amount is for: 1) outsourcing of data processing ($3.2 million); 2) funding software integration and maintenance to conform to the six data source (feeder) systems, implementing calendar year 2000 compatible software, and providing key data enhancements to better track and report enforcement results ($1.79 million); 3) continuing independent contractor software testing and certification ($1.0 million); and 4) providing hardware maintenance, magnetic media, data transfer and other support ($90K).

Question. How reliable are the data being entered into ERIS? What problems, if any, exist with the ERIS data?

Answer. We believe ERIS to be highly reliable. This conclusion is based on two recently completed GAO reviews of ERIS processing and data that, based on oral reports from GAO, have identified no significant problems with ERIS. A third review of ERIS is underway as a part of the GAO financial review of IRS. In addition, all recommendations of earlier Internal Audit reports have been incorporated into ERIS.

Although we are not aware of any problems with ERIS data, the project office continues to monitor and update the software for any changes to the feeder systems. Along with the rest of the IRS, ERIS is actively working to ensure that any issues associated with Calendar Year 2000 are dealt with in advance of the time when ERIS data will be impacted.

Question. How, if at all, does IRS use ERIS data to assess the relative return on investment of its different enforcement programs and to allocate resources among those programs? If ERIS data are not being used in that way, why aren't they?

Answer. IRS uses ERIS data to predict actual dollars collected based on Examination recommendations and to eliminate double counting of revenue between functions (e.g., dollars collected by Collection from an Examination case). However, ERIS only captures direct revenue collected. IRS resources are only partially allocated on the basis of direct revenue to cost. IRS adjusts allocations to account for the likely indirect effect of the various enforcement programs.

Question. In response to a question last year, IRS said that it planned to use data on enforcement collections from ERIS in an enforcement resource allocation model that IRS was developing. What is the status of the model and when does IRS plan to begin using it to allocate resources?

Answer. IRS has developed a simplified model to assist in allocating resources among Examination, Collection, and the Information Returns Program. Using an iterative process, this model allocates resources based on the estimated marginal yield to cost ratio. The methodology incorporated in this model is to allocate resources in each iteration to the function that is able to collect the most revenue at the least cost. ERIS data is used to enable the Service to convert Examination recommendations and underreporter assessments to actual dollars eventually collected.

While this simplified model has been used in conjunction with the workload planning process, it has not been used as the exclusive determinant in allocating resources for several reasons. It does not allocate to all Compliance functions; Criminal Investigations, International, and EP/EO are excluded. The model also is limited to direct revenue collected; any indirect revenue or protected revenue (i.e., monies

which IRS prevents from being improperly refunded) is not included in the model. The model is static in the sense that it allocates resources one year at a time; the multi-year, cross functional effects of resource allocation decisions are not included. Finally, the model does not allocate resources geographically.

To address these limitations, IRS has begun to design a replacement model. The objective of this model is to maximize long term net tax revenue (both direct and indirect) subject to expected available funding. IRS has completed draft high level system design.

REQUEST FOR COMMENTS, MODERNIZATION PLAN

On may 15, 1997 the IRS issued a Request for Comment (RFC) on its initial plan for acquiring the Prime contractor for its new modernization effort. The RFC's key theme is a partnership between IRS and the private sector.

A partnership principle proposed "mutually beneficial financial arrangements based on shared capital investment and shared risk" (p.55). Part of that risk includes the private sector assuming front-end capital investment, in exchange for certain undefined reward.

Question. What do you consider to be an appropriate up-front capital investment by the private sector?

Answer. The Request for Comments (RFC) for a PRIME Systems Integration Services Contractor, issued on May 15, 1997, proposes that contractors make available no less than $200 million of working capital.

Question. How will the performance reward metrics be determined?

Answer. It is anticipated that the private sector, through interactive technical conferences with the IRS scheduled between May 15, 1997, and August 15, 1997, will provide feedback regarding the desirability and feasibility of incorporating a performance based contract approach, which applies performance metrics, in the final draft PRIME RFP scheduled for issuance no later than October 1, 1997.

At this time, it is planned that systems outcome measures (to be derived from the Modernization Blueprint, Phase I, Level III analysis) would be included in the final draft RFP and that PRIME offerers would comment on these measures. Such comments would be considered in completing the final PRIME RFP to be issued on December 1, 1997. It is also anticipated that the final elements of the performance based contract and associated metrics would be negotiated after contract award with the successful PRIME offerer.

Question. What parallel risks and/or changes will be made at IRS to meet the private sector investment—or will we continue to see business as usual?

Answer. Given the massive size and scope of Modernization, success would be dependent on an effective public/private sector partnership, with the interdependencies of both parties defined, planned and scheduled.

Thus, to mitigate risk, it would be essential for both the public and private sector parties to honestly and candidly assess the needed capacity and capabilities of each and develop Modernization plans, solutions and budgets which reflect such capabilities.

For our part, the Associate Commissioner for Modernization/Chief Information Officer (ACM/CIO) has testified repeatedly that the IRS would not commence Modernization until it possessed the requisite capacities and capabilities. The ACM/CIO has testified that Modernization ought not begin before fiscal year 1999.

During this interim period, the IRS must develop and deploy the essential "best practices" recommended by the GAO in 1995. Toward that end, the ACM/CIO is completing the recruitment of ten executive technical managers and has formed a Systems Standards and Evaluation Office to oversee Modernization. Len Baptiste, formerly a GAO senior manager, has been recruited as Director of the Office. While much needs to be done, significant progress has been made during the past year to implement the GAO recommendations.

In addition to developing the requisite capacities within the IRS, the Department of the Treasury, pursuant to the President's Executive Order, has formed the IRS Management Board to provide agency oversight—particularly with respect to Modernization.

Question. According to the RFC the Prime contract is to last for three years, does the IRS believe that the private sector can forge a strong business relationship and recoup its up-front capital investment with the IRS within that short time frame?

Answer. Modernization will be managed in a manner that is consistent with the tenets of the Clinger-Cohen Act including incremental systems development and deployment.

It is planned that the initial increments would be implemented within the initial three years of the contract with the aim of minimizing risk and quickly assessing

the effectiveness of the PRIME/IRS Modernization partnership. Early, incremental implementation also would enable the PRIME and applicable subcontractors to recover a portion of the "up-front" investment.

It should also be noted that the IRS may extend the three year contract period in the final PRIME RFP based, in part, on industry feedback concerning the RFC. Further, the RFC currently provides for twelve (12) one year renewal periods, thereby providing for a potential fifteen year PRIME contract term.

Question. What if the Prime fulfills its contractual obligations during the three year period, yet the IRS does not see any cost savings or return on investment, how will the Prime then be compensated?

Answer. In general, "performance based" contracts provide for mutual agreement between the contractor and the customer concerning measurable outcomes of a systems implementation. Put another way, the contractor's compensation is dependent on not only implementing a system but also ensuring that the system performs in accordance with the pre-defined measurable systems outcomes.

Applying these principles to the IRS, if the contractor ". . . fulfills its contractual obligations . . ." the IRS would realize the expected ". . . cost savings or return on investment . . ." and, in turn, the contractor(s) would be appropriately compensated.

The specifics of the PRIME/IRS contractual relationship, however, would be dependent on the RFP requirements, the winning contractor's proposal and the post award contract negotiation.

Question. As the private sector begins to absorb work now being performed by the IRS, what staffing changes will be made? Will FTE's remain at current levels, or will there be a significant reduction in staff as a result of more work going to contractors? How will the IRS accommodate any FTE reductions in this area?

Answer. We don't anticipate significant staffing changes to be made. The IRS has lost staff through attrition or has redeployed staff to key legacy needs, including century date conversion and DIS/RPS Replacement; and is expanding its ability to test tax processing programming changes. In fact, during the period of fiscal year 1998–2000 added resources are needed for: Year 2000 Conversion (Y2K); Data Center Consolidation; Product Assurance build up; Modernization build up; DIS/RPS Replacement; Security systems; and Tax Law changes.

Therefore, the IRS Information Systems (IS) organization cannot accommodate any FTE reductions if we are to accomplish the above, implement the Systems Life Cycle (SLC) and build a Capability Maturity Model Level III program. Downsizing decisions on IS should be deferred until 2000 when the impacts of the completion of Y2K and the initial savings from Data Center Consolidation are realized. Programmatic efficiencies from Modernization ought not be expected earlier than 2001. Downsizing Business operations prior to 2001 is premature.

The IRS has already shifted more than 60 percent of the IS resources to the private sector. Further, with respect to Modernization Development and Deployment, the IRS has already reduced the IRS FTE's from 524 to 136.

NEW BUDGET STRUCTURE

In the fiscal year 1998 request, IRS is proposing a new budget structure with three new categories: (1) Processing, Assistance, and Management, (2) Tax Law Enforcement, and (3) Information Systems.

Question. Although this may be more in line with what IRS is trying to do management-wise, there is concern that this new structure makes it harder for Congress to track how IRS is spending taxpayer funds. Please comment.

Answer. The proposed changes in the IRS' budget activities make very good business sense. The new activities more closely align the budget activities with the major business lines, facilitate receiving a clean audit opinion, create a separate account for capital investment, and provide maximum flexibility in balancing programs. The new activities are just as easily trackable as the previous ones. The new budget categories are still covered by the same restrictions regarding inter-appropriation transfers and transfers in and out of budget activities. IRS will still follow the same GAO and Congressional guidelines in reporting and monitoring our progress with the budget activities.

Furthermore, the GPRA has directed government agencies to define performance measures and establish performance targets. The new budget activities have performance measures which are easily trackable. IRS will annually report on actual versus planned performance results.

Question. Another concern is that the new structure makes it appear that there I more funding for Processing and less for Tax Law Enforcement, but there are some compliance efforts that now fall under Processing. However, the general public won't

necessarily be aware of this and perception is everything. Please provide a list of which compliance efforts fall under Processing (PAM) and Tax Law Enforcement respectively.

Answer. One of the key features of the new structure is the consolidation of activities in which IRS interacts with taxpayers by telephone and correspondence. The new consolidated structure would increase flexibility to handle telephone calls and balance resources for the peak period for both assistance and taxpayer account work.

It is worth noting that the IRS Toll Free Taxpayer Assistance has never been only an assistance program. Historically, some 60–70 percent of our calls have been "account related"; only 30–40 percent of our calls have been tax law related. Currently, depending on whether a taxpayer calls or writes, the same taxpayer questions could be answered by different employees using different procedures. With the new structure, IRS will have one organization responsible for handling the full range of account issues. The emphasis will be on early resolution of issues over the phone.

The compliance pieces that will move to Processing, Assistance and Management (PAM) include ACS and the Service Center Collection Branch which are currently part of the Collection activity. Also, moving to PAM is the Service Center Exam Program. These activities will be consolidated with Toll Free in a single consolidated Telephone and Correspondence Budget Activity Code (BAC). Document matching will move to PAM as well but will retain an identity as a separate BAC.

The Compliance activities that remain in Tax Law Enforcement (TLE) are those performed by district office personnel. The programs in these activities are ones in which IRS interacts with the taxpayer in person.

ACCOUNTABILITY

The IRS has had a long history of missteps in many areas: taxpayer service, treatment of taxpayers, computer modernization, and auditing practices. Treasury oversight seems to only be apparent when Congress calls attention to a specific problem within the IRS.

Question. Are there credible checks and balances within Treasury and the IRS to make sure policies are properly reviewed?

Answer. I believe that we are putting the proper review infrastructure in place. Let me take a moment to describe the principal components:

—Within the IRS, the IRS Investment Review Board is the major management group responsible for reviewing investment decisions. The Executive Committee reviews overall policy directions.

—Within Treasury, the IRS Management Board (IRSMB), which was formerly known as the Modernization Management Board, is the equivalent of a strategic oversight board or Board of directors. The Treasury Investment Review Board is a separate entity which deals with cross-cutting review of technical issues related to modernization. The Treasury CIO chairs the Treasury IRB and sits on the IRSMB.

—Of course, Treasury continues to carry out day-to-day oversight on a wide variety of management and tax policy issues through its established structures.

—Finally, we have promised to institute a blue-ribbon group of outside experts to make certain that fresh perspectives and ideas continue to be made available to us.

Question. Who determines the direction the IRS takes on any given policy?

Answer. It depends on the question. Tax policy issues go through the Assistant Secretary for Tax Policy to me and the Secretary. Administrative issues typically go through the Assistant Secretary for Management. The IRSMB will review major strategic issues in the areas of operations. We do not get involved in the normal course of events on individual cases; these are left for the IRS.

IRS RESTRUCTURING COMMISSION

Question. The IRS Restructuring Commission is due to release its report later this month. Treasury has expressed strong opposition to some of the forthcoming recommendations of this report. Please elaborate the Department of Treasury's concerns.

Answer. First, I would like to emphasize that we and the Commission agree on many things concerning the operations of the IRS. We agree, for instance, on the importance of a customer service focus in any efforts to reform the IRS, and the need for a stable and predictable budget for IRS operations and modernization. We have continued to stress these areas of agreement.

That being said, it is well-known that we disagree with the idea of turning overall management responsibility for the IRS over to an outside Board of Directors. We simply think that the arguments for continuing to have the nation's tax collection agency responsible to politically accountable officials, and the problems involved in turning supervision over to a group of part-timers who by definition have their own vested interests, are both overwhelming.

We also have a number of other issues with the Commission in the areas of mandatory electronic filing, due dates for returns and the like, but it is fair to say that we are farthest apart on the governance issue.

Question. The Commission was established because Congress was frustrated by the fact that we couldn't get the IRS to carry out meaningful changes that would improve its operations. Last month you announced Treasury's own plan to preempt the Commission's recommendations. Now that there are two plans proposed, what criteria do you believe Congress should utilize to evaluate both proposals?

Answer. Experience and common sense.

YEAR 2000 CONVERSION OF THE IRS

Question. Given the IRS' recent request for $258 million for the Year 2000 conversion effort, is Treasury supportive of this request?

Answer. Treasury certainly agrees that the Year 2000 Date Change issue is a priority and will need to be adequately funded. We also agree that the numbers are likely to change a bit as the IRS works through its massive inventory of old systems and programs. At this point no one can say with certainty what the final costs will be for this effort, but what is needed should be spent.

Question. Is Treasury or the IRS willing to reprogram funds for this effort?

Answer. If a formal reprogramming is determined to be needed it will be requested. Otherwise funds will be reallocated to meet identified needs.

Question. If the full funding requested is not provided to the IRS, what will the impact be on the Treasury?

Answer. Fixing the Year 2000 Date Change problem is a stay-in-business requirement. We have no real choice in the matter. For the IRS, this is a massive effort, involving changing millions of lines of code as well as updating all mainframe computers. By not fully addressing this issue now and providing adequate funding, we run the risk that IRS systems will not be up to acceptable standards by January 1, 2000. This could result in significant financial problems for the entire government because it could impact on the IRS' processing functions whereby over 200 million tax returns and $1.5 trillion is collected each year. IRS collects approximately 95 percent of total federal revenues. Shifting money from other sources could also cause major problems; for each dollar taken from our operating appropriations we estimate that we forego $4.50 in revenue collections.

Question. Is Treasury prepared to assist the IRS in finding an offset for this newly requested funding?

Answer. Yes.

QUESTIONS SUBMITTED BY SENATOR SHELBY

Question. You've mentioned that you recognize the importance of bringing in outside expertise from the private sector to sit on the Modernization Management Board. Do you believe that an effort should be made to hire such people in order to inject fresh ideas into upper-level management at the IRS?

Answer. First, I would like to clarify our position on outside expertise. I believe that any public agency, or private sector company, will benefit from fresh ideas and insights from the outside. In the case of our oversight of the IRS, what we want to do is balance the executive-branch perspective that the MMB offers with the advice and counsel of outside experts who will form a separate blue-ribbon panel that can examine a range of issues and trends in areas such as customer service and technology. Both perspectives, acting in concert, will give us the proper balance of experience and new ideas.

The question of whether and how to hire outsiders for day-to-day management inevitably raises a somewhat different set of questions. The proper mix depends on the circumstances for the organization. In general I think the IRS, at this point, can benefit from the addition of a greater number of outside experts. That is why we have included this kind of infusion of new thinking as part of our overall IRS reform strategy.

Question. Indications are that one of the contributing factors to the ineffectiveness of upper-level management is a very high turnover rate. In your estimation, is this

a significant problem, and if so, what can be done to attract and retain qualified people in upper-level management at the IRS?

Answer. There is no question that the turnover rate at the top of the IRS has increased in the last few years, and that the result has hurt the agency. One possible reason is, in some cases, the kind of people who are qualified to hold senior executive positions at an agency that is as large and complex as the IRS are going to be in demand outside the government as well, and can probably increase their incomes by taking some of these offers. Other factors include the way the government retirement plan is structured and, frankly, the increasing pressure on IRS executives due to public attacks on the Service. Many of these attacks are mis-informed and unfair and IRS managers have very human reactions to this kind of criticism.

Solutions are harder to come by. Better pay will help. But the ultimate solution, I suspect, is to put in place the kind of improvements at the Service that will lead to justifiable pride in the work that is being done. People don't bail out of planes that are gaining altitude.

QUESTIONS FOR ARTHUR GROSS, CHIEF INFORMATION OFFICER, INTERNAL REVENUE SERVICE

Question. Last year's Appropriations bill spelled out several criteria that Congress instructed you to follow in selecting a prime contractor to fix the Tax Systems Modernization program. Two of the criteria that are particularly important are experience in managing large scale computer systems and experience in working with government tax and revenue agencies. As you've testified, you've already put out a Request for Comment on a new contract. Are there people in the private sector who can meet these criteria and fix the big problems that we all agree need fixing?

Answer. Pursuant to issuing the Request for Comments (RFC) for a Prime Systems Integration Services Contractor, the IRS required potential PRIME contractor offerers to submit a "Representation of Eligibility to Compete for the PRIME contract." Eligible contractors would be required to meet or exceed a variety of criteria including: "Demonstrated significant program management and systems integration experience including management of subcontractors as measured by lead responsibility for development and implementation of an integrated information system or systems with a scope: Requiring in excess of 5 million lines of computer code or equivalent scope and complexity (e.g., integration of Commercial-off-the-Shelf (COTS) software and custom code); and/or Requiring a budget in excess of $300 million."

The following companies submitted representations meeting or exceeding these criteria: Andersen Consulting; Computer Sciences Corporation; EDS Government Services; GTE Government Systems; Hughes Information Technology Systems; IBM Corporation; Litton PRC; Lockheed Martin Corporation; Northrop Grumman Corporation; Raytheon E-Systems; Tracor Information Systems Company; and TRW Systems Integration Group.

With respect to the criterion requiring ". . . experience in working with government tax and revenue agencies," most if not all of the twelve companies possess such capabilities. Further, the evaluation criteria to be applied in selecting a PRIME contractor include "Depth and breadth of experience and quality of past performance in developing tax administration systems and large scale integrated systems."

Based on the industry responses to date (i.e., Representations from the twelve aforementioned companies), it is the judgment of the IRS Chief Information Officer that a number of private sector companies meet or exceed the criteria and, indeed, "fix the big problems;" provided IRS develops the requisite capacities and capabilities to effectively partner with the private sector.

Question. Given that the problems with the Tax Systems Modernization program have many facets, isn't it the case that rather than using one large firm, it would be more effective to use multiple firms who have expertise in each of these different areas?

Answer. Indeed the IRS contemplates that a mix of firms would be required to address the many facets of the Modernization program both to ensure that a comprehensive array of management and technical expertise is deployed and to promote cost competition.

Question. As both you and Mr. Summers mentioned, the IRS is working with a marketing firm to help facilitate electronic filing. Indications are that only 12 percent to 14 percent of returns are filed electronically, even though over one-half start in electronic form. In other words, depending on how complex an individuals returns

is they might only be able to file certain parts of their return, while mailing other parts. Does the strategy you are now working on address this and other fundamental flaws in the current system?

Answer. The above statement and question is addressing two separate issues. Returns starting out in electronic form are our targets for an aggressive marketing campaign in 1998 and future years. The second part addresses the Service's lack of our system's ability to receive electronically all schedules and attachments for the Form 1040. This issue is part of our Request for Information/Request for Proposal packages we are preparing to solicit assistance from third parties in expanding our electronic filing system.

QUESTIONS SUBMITTED BY SENATOR KOHL

QUESTIONS FOR THE INTERNAL REVENUE SERVICE

1. In testimony before the Treasury General Government Appropriations subcommittee on April 15, 1997, Deputy Secretary Summers stated that of the $3 to $4 billion spent on the Tax Systems Modernization, $500 million represents spending for systems or equipment that cannot be used. Over $775 million was used for personnel salaries and expenses.

Question. What modernized functions can be provided from the equipment purchased with the remaining $1.7 billion?

Answer. The IRS has obligated $3.296 billion of the $3.531 billion appropriated by the Congress for Tax Systems Modernization (TSM) from fiscal year 1987 through fiscal year 1996. Of the $3.296 billion, $607 million has been spent on efforts that the IRS determined would not meet future requirements and priorities or could not deliver the appropriate benefits to justify continuation. Based on an analysis of the discontinued projects, approximately 28 percent of the expenditures, $170 million, were dedicated to hardware, commercial-off-the-shelf software and site preparation that could be utilized in the current technology environment. The remaining TSM expenditures provide the IRS with better ways of delivering service, influencing compliance and administering the tax system.

—Replacement of Aging Infrastructure: The IRS replaced and upgraded significant components of its aging computer infrastructure to support the processing of more than 200 million tax returns, 80 million refunds and $1.4 trillion of tax revenues. The replacement and upgrading included computing center mainframes, data storage and associated tape robotics as well as other peripheral equipment. These funds also provided for site preparation, universal wiring, PBX units and other telecommunications equipment to link the computing centers with the service centers, district offices and customer service sites.

—Development and Deployment of Return and Payment Processing Systems: The IRS developed and implemented systems to provide for the electronic transmission of tax returns and electronic payments as well as the automated transcription of data from paper Federal Tax Deposits, information return documents and tax returns. Employers can pay employment and other depository taxes electronically, which is faster, easier and more accurate for taxpayers and the IRS. As of May 27, 1997, the IRS has received $373 billion in electronic payments.

As of May 23, 1997: The IRS received 19 million electronically filed returns, an increase of 27 percent over fiscal year 1996; Taxpayers filed almost 4.7 million returns through their telephones using the IRS TeleFile program, up 65 percent over fiscal year 1996; and A TeleFile option for the simpler Form 941 (Employee's Quarterly Tax Return) began testing on April 1, 1997, with nearly 900,000 eligible businesses in 14 states and the District of Columbia. As of May 12, 1997, almost 49,000 returns have been filed through this test program.

—Development and Deployment of Customer Service System: The IRS deployed automated telephone systems capabilities and developed and deployed the capability to facilitate the research of taxpayer account issues. These investments included 3000 customer service workstations as well as the telecommunications systems to support the toll free telephone systems (including the Telephone Routing Interactive System) and the Teletax system which provides information interactively to taxpayers. The IRS developed a world-class Web Site on the Internet that provides access to all IRS forms and publications, plain language summaries of tax regulations, the Internal Revenue Bulletin, answers to most frequently asked questions, and an array of other self-help tools.

—Development and Deployment of Compliance Systems: The IRS developed and deployed distributed systems (e.g., servers, laptops) to facilitate examination,

collection and criminal investigation functions as well as systems for compliance support functions.

Question. In reviewing the IRS business plans for moving forward is the MMB considering the impact of previous technological investments? Or are you looking at the business plan without considering previous investments?

Answer. One of the many myths about previous TSM investments is that somehow the government got nothing for all of its investments. As Art Gross has testified, we did receive many benefits in the form of a modernized technical infrastructure and better hardware platforms. The new Modernization Blueprint builds on these improvements in the operating environment.

2. Since section 6103 prohibits the disclosure of tax return information, the IRS does not deposit, what many would consider historical records, with the National Archives and Records Administration.

Question. Since this could be detrimental to creating an accurate history of IRS actions, what actions are being taken to ensure historical records are preserved.

Answer. The IRS has taken affirmative steps in consultation with the National Archives and Records Administration (NARA), to ensure that IRS' historical records are preserved, not destroyed, while at the same time maintaining the confidentiality of section 6103 protected information.

In answering this question, we think it is important to reiterate that according to NARA, only one to five percent of records in any Federal agency, IRS included, have historical value. For the most part, IRS records of potential historical value are its administrative records that document the policies, organizational structure, and program activities of the IRS. These can include, for example, certain directives and correspondence, organizational studies, manuals, news releases, official portraits, and photographs. Section 6103 does not preclude NARA from accessing and reviewing these types of IRS management and policy records. To the extent these records contain any section 6103 protected data, all such protected data can be masked before the records are provided to NARA.

In sum, historical records containing or consisting of section 6103 protected information constitute a very small percentage of the IRS' permanent records. However, the IRS is working with NARA to ensure that IRS' historically valuable records that are protected by section 6103, in whole or in part, are preserved, not destroyed, even though section 6103 precludes the inspection of such records, or parts thereof, by NARA, by historians or journalists for research purposes, and by the general public. Moreover, the IRS has completed records inventories throughout all major IRS headquarters organizations. The primary objective of these inventories was to identify unique program and policy records that document the agency's history for ultimate transfer to NARA.

Records preservation issues were addressed by NARA in its most recent evaluation of IRS' records management program. In the summer of 1994, representatives of NARA met with IRS officials to begin an evaluation process of IRS' records management program. From October 1994 to May 1995, NARA visited IRS' National and field offices in connection with their evaluation. NARA's research included standardized questionnaires and interviews across a broad spectrum of IRS employees to ensure an accurate overview of records management practices at all levels of administration.

On December 14, 1995, the Archivist of the United States presented the IRS with NARA's evaluation report on records management at the IRS. NARA's report made 58 recommendations for improvements in IRS' records management. An interagency working group was established to address the issues and recommendations contained in NARA's evaluation report, and a time-line was established for implementation of NARA's recommendations in five phases to be completed by September 1997. As a result, significant progress has been made in implementing NARA's 58 recommendations and IRS' actions are on schedule for timely completion by September. On May 8, 1997, NARA issued a progress report stating that it continued to be pleased with IRS' progress and confirming that NARA was satisfied that, thus far, IRS has implemented a total of 47 of NARA's original 58 records management recommendations.

3. Over the past year it has been acknowledged that perhaps the TSM project was just too large to accomplish and that the logical approach would be to upgrade segments of the existing system, adapting portions as successes are achieved. Under the new scenario it would appear IRS is moving down the same path.

Question. Please explain how this approach will be different?

Answer. The Modernization Blueprint lays out our target architecture. Along with it you will find a flexible sequencing plan, which describes the step-by-step approach that we will be taking to get us there in modular fashion. we fully intend to move

sequentially. As existing programs are replaced they will be retired. Until then we will keep them operational.

In this connection I think it's important to get the metaphors right. TSM is not, in any real sense, a single project or program that will replace a single system. The IRS computing environment today is a tangle of separate systems, developed over forty years for specific purposes and tied loosely together. Since we obvious cannot shut the current systems down and wipe the slate clean, we have to modernize as we go, and take extreme care to make sure that the existing legacy systems continue to operate. This kind of incremental approach is the heart of the current sequencing plan. It is very difficult to do and demands careful control as we go along.

4. The new architecture will provide for a modernization system that will be a centralized rather than a distributed information system. That sounds like a complete change from the original plan.

Question. Should it be assumed that the costs associated with the new system will be at least as great as what has already been spent to modernize the tax collection systems?

Answer. There are really two issues here—one relating to the technical change in emphasis from a distributed design philosophy and the other related to costs. As to the first point, it is certainly true that the new Modernization Blueprint puts far more emphasis on the use of centralized computing resources—the so-called mainframe-centric approach—than did the original TSM designs. I am told that this represents a general trend in the industry as designers get a better understanding of the true strengths and weaknesses of centralized systems versus the distributed systems that came into vogue a decade ago. In our case the arguments for a centralized approach—in terms of economy, efficiency, and security—seem to be very strong, speaking as a non-expert in the field.

As to the ultimate cost, that will depend heavily on the success of our efforts to engage the private sector in our Prime Contractor effort. Those contracts remain to be written. And of course the ultimate cost depends on the sufficiency of appropriations. If we receive adequate funds, the project will be finished quicker and cost less in the long run than if we stretch things out over many years.

5. Question. Is the IRS conducting internal reviews to determine the core functions and what functions can be done better by the private sector?

Answer. As explained further below, the IRS has a number of initiatives underway to either transfer workload to the private sector, which is currently taking place with IRS' modernization program. We are also studying whether certain functions, such as submission processing or collection, could be performed better by the private sector. In making these determinations, the most important question that needs to be addressed is not whether to outsource an activity, but how to get the most effective and efficient performance for the taxpayer's dollar.

Question. What functions have you reviewed and determined could be eliminated?

Answer. The IRS, like many large businesses, has many functions which contribute to the achievement of its mission. In striving to maintain the proper balance between assisting taxpayers, processing returns, and ensuring that all segments of the taxpaying public pay their proper amount of tax, IRS' emphasis has been on performing these functions in the most effective and efficient manner possible. Sometimes this can be accomplished through partnering with the private sector or outsourcing, while sometimes other solutions are more viable.

For example, in the Information Systems area, the IRS continues to transfer significant aspects of the technology modernization program to the private sector. The December 1, 1996, report to Congress documents that 64 percent of the modernization program resource allocation is provided by the private sector. The largest and most important initiative for fiscal year 1997 was the contract recently awarded to develop, pilot and implement the submissions processing manual data entry systems replacement. The IRS also is in the process of competitively acquiring a Systems Engineering and Technical Assistance (SETA) contractor to provide technical, program and project management guidance to the modernization effort. Pursuant to the fiscal year 1997 Treasury appropriation, the Treasury IRS Management Board (IRSMB) is working with the IRS preparing a Request for Proposal (RFP) for a prime contractor to manage, integrate, test and implement the program.

In order to address the growing volume of paper tax returns and documents, the IRS is also studying the potential for outsourcing the processing of paper returns as outlined in the January 1997 report to Congress. Assuming that there is commercial interest, a RFP will be issued to obtain contractor bids. Since risks are inherent in turning such a critical system over to an outside processor, the IRS has already begun the ongoing process of identifying "inherently governmental" functions in that process. Based upon the experience of other agencies in large-scale outsourcing initiatives, the IRS estimates that it could be as many as four years before it could

be ready for a pilot project on outsourcing paper return processing. As this process proceeds, IRS will carefully review all steps forward to address concerns about privacy and security of taxpayer information.

Aggressively partnering with the private sector is also a key aspect of our electronic tax administration strategy. This month, IRS will issue a Request for Information (RFI) seeking views and recommendations from all interested parties on the issues most crucial to develop a dynamic electronic tax administration program.

Finally, as discussed in more detail in an earlier question, in June 1996, IRS awarded contracts to private debt collection agencies to study the feasibility of outsourcing the collection of delinquent federal taxes.

Question. Won't eliminating IRS functions provide the IRS an opportunity to focus management efforts on IRS core responsibilities?

Answer. One of the recommendations contained in the recently issued report by the National Commission on Restructuring the IRS was that Congress could simplify tax administration by limiting the assignment of non-core functions to the IRS. As the report notes, ''the addition of non-core functions exacerbates governance and management problems, diverting the organization from establishing a strategic direction with clear priorities.'' The IRS generally agrees with that assessment regarding the addition of non-core functions. However, shifting existing functions and activities to the private sector would not necessarily have the same impact since under that approach the IRS would still be responsible for ensuring that the function is performed efficiently and effectively.

PRIVATE SECTOR DEBT COLLECTION INITIATIVE

1. In fiscal year 1997 Congress directed the IRS to transfer $13 million to the Department of Treasury for a second private sector debt collection program.

Question. Could you please explain what action IRS has taken since the Departmental Offices directed IRS to be the program manager for this effort? Please explain how the funds have been obligated.

Answer. In compliance with the directive from Congress to issue a second pilot private sector debt collection program, the IRS under the Department's direction, issued a Request for Information (RFI)/Draft Request for Proposals (RFP) on March 7, 1997, to enhance communication with contractors. Meetings were held between IRS representatives and prospective contractors to address questions and concerns regarding the proposed second pilot private debt collection program. The solicitation was released on April 30, with a due date of June 2. We received 17 proposals.

On June 10, Secretary Rubin received a letter from Congressmen Jim Kolbe and Stephen Horn and Congresswoman Nancy Johnson requesting that Treasury not move forward with awarding contracts solicited under the RFP at this time. The General Accounting Office (GAO) had reviewed the fiscal year 1996 IRS Private Sector Debt Collection initiative and identified several legal and administrative impediments that had prevented the pilot from being successful. They expressed concerns with continuing the Treasury initiative and thought that the problems identified by the GAO would likewise prevent contractors from producing an effective result. Based on GAO's findings and the IRS' pilot results, we agreed not to move forward with contract awards for the second pilot at this time. The funds have not been obligated.

2. It is my understanding that the Private Sector Debt Collection contractors have a success rate of about 30.5 percent full payment from all contacts made. The IRS has a success rate of 14 percent. However, the contact rate by the contractors is below IRS expectations.

Question. Since the cases the contractors are working are inactive, what level of contact would the IRS consider significant?

Answer. The success rates referred to in the question seem to be slightly misstated, but appear to derive from data previously furnished by IRS to the House of Representatives. The success rates of the contractors in obtaining full payments and unassisted installment agreements through January 31, 1997, were about 30.5 percent of the total number of contacts made, roughly in line with IRS estimates. The contractors' success rate for IRS-assisted installment agreements is about 14 percent of the total number of contacts, about half the IRS estimate. However, the rate at which the contractors have been able to contact the taxpayers in the first place is significantly below the 40 percent rate IRS considered necessary for the success of the contracts. As of the end of April, after nine months of operation, the contractors had contacted 28,273 taxpayers out of the 202,203 cases provided by IRS, or 13.98 percent. Although the final contact rate cannot be computed until contractors' invoices for May and June are verified, IRS projects that it will be in the range of 15 percent to 18 percent.

Question. How does the level of contact compare to the IRS levels of contact.

Answer. Since IRS does not routinely work the types of cases provided to the contractors, there is no IRS contact rate that is comparable to that of the contractors. IRS has no valid way of comparing the results of the contractors' work against that of any group of IRS employees. The cases contracted out, in accordance with the requirements of the authorizing legislation, were largely inactive and would not normally have been subjected to the kind of intense follow-up that the contractors are doing. Even if IRS employees were working similar cases, a comparison of IRS results with contractors' employees would be inappropriate, since IRS employees have the use of enforcement tools such as levy and lien, and decision making authority such as abatement, that cannot, by law, be transferred to contractors. However, IRS has established an evaluation plan that, when complete data are available, will compare the revenue generated from the contracts with revenue generated from a statistically valid control group of identical case types that are subject to the ordinary systemic and low-investment collection actions of IRS, such as annual reminder letters, refund offset, etc. The IRS has no preliminary estimate of the results such a comparison will show.

Question. Is the IRS interested in the success of this program?

Answer. Yes.

Question. If so, how could the private sector debt collection initiative be structured to provide optimal success rates? If not, why not?

Answer. The IRS does not advocate the desirability of any specific structure without full analysis of the pilot data results and full consideration of policy, public perception, and administrative implications. The analysis of the pilot will be completed September 30, 1997. This analysis will provide data and analysis useful to responding to this question.

GOVERNANCE AND MANAGEMENT

Question. Is the constant attention of micro issues preventing Treasury and the IRS from providing the necessary macro review of core IRS issues?

Answer. The time devoted to addressing micro issues is considerable and definitely detracts from the attention that could otherwise be paid to more strategic matters. For example, as of June 30, 1997, there were nearly 50 open GAO audits covering the entire gamut of tax administration issues. Congressional committees also tend to focus their attention on specific issues and incidents. The seven committees (and their respective subcommittees) most responsible for IRS oversight—House Committee on Ways and Means, House Committee on Appropriations, House Committee on Government Reform and Oversight, Senate Committee on Finance, Senate Committee on Appropriations, Senate Committee on Government Affairs, and the Joint Committee on Taxation—focus on different issues that change from year to year. Other Congressional committees and member offices also surface issues as does the judiciary, tax practitioners, other stakeholder groups, the media and the general public. While these issues are important, they do detract from a more coordinated, high-level review of the strategic issues confronting tax administration.

Question. Is it possible for IRS management to be strategic rather than reactive?

Answer. The IRS has long engaged in strategic or long term planning and, like most organizations, this process has under gone a number of changes over the past few years. Recently, IRS was one of the first federal agencies to use an integrated strategic management process; one in which planning, budgeting, investment, performance measurement and program evaluation processes are integrated. The IRS developed its strategic management process after consulting with other public and private sector organizations. Setting long-term goals and annual targets, managing activities to achieve those goals and targets, measuring performance annually, and holding people accountable will not only help improve tax administration, but it will also help the IRS and Congress make informed budget decisions about balancing resources across objectives.

Since last year, the Department of Treasury supplemented the existing IRS decision making process with the Modernization Management Board (MMB) which brings together both policy makers from Treasury and the IRS, as well as other stakeholders, to provide proactive direction, much like an activist Board of Directors. The MMB contributed materially to the rigor of IRS strategic and policy analyses; the linkage between strategic choices and resource allocation through the budget process; and the practicability of the IRS' implementation strategies. In order to further strengthen this process, on June 24, 1997, President Clinton issued an Executive Order which established a permanent Internal Revenue Service Management

Board to assist the Secretary of the Treasury in ensuring effective management of the IRS.

Question. Deputy Secretary Summers, the MMB currently has twenty members; eighteen are employees of the Department of Treasury, of which eight are IRS employees. Only two MMB members are from outside Treasury. With the majority of this Board consisting of IRS representatives can the Board really provide independent IRS management review?

Answer. I believe that the MMB can do so, but it needs a little help, which we will give it. The MMB is explicitly designed to bring together the key executives from IRS, Treasury, OMB and the National Performance Review who deal with IRS operations in a "common ground" to discuss overall strategic issues. In addition, though, as we announced in March we will be establishing a group of outside experts in different fields to provide an independent source of advice and assistance to the secretary and me. These two groups will interact and support each other appropriately.

Question. The Investment Review Board was established in October 1995 to serve as the forum for senior IRS executives to make decisions regarding information systems expenditures and investments. This Board was established to provide executive direction and oversight for the information systems budget and for all information technology investments. Please explain how its functions differ from those proposed from the MMB and why the MMB will function better?

Answer. The two groups really have different functions. The best analogy I can give is to compare the IRS to a large, Fortune 50-sized private firm, where you will often find both an executive committee or management committee which is responsible for detailed review of specific proposals and a Board of Directors which deals with long-term strategic issues. In our context, the IRS Investment Review Board is the internal management committee and the IRS Management Board, which will replace the MMB and carry on its general direction, functions as the equivalent of a Board of Directors. We would expect—and in fact this has turned out to be true—that most of the investment issues brought before the IRSMB have been previously discussed by the IRS IRB, but the IRSMB has a different purpose and a different perspective. So the two groups have different but complementary functions.

Question. Acting Commissioner Dolan, the $1.28 billion requested for Information System in fiscal year 1997, includes $131 million for TSM development and deployment funds, and $83.9 million for program infrastructure. Please explain what those requirements are and how they fit into the architecture for the future TSM plan?

Answer. The $83.9 million requested for program infrastructure in fiscal year 1997 was used to fund the non-recurred Tax Settlement Reengineering Study ($5 million), the Government Program Management Office, Performance Management Office and Systems Standards and Evaluation Office ($34.2 million), and contractor support ($44.7 million) for the development of the Modernization Blueprint, Architecture and Sequencing Plan completed in May 1997. The fiscal year 1998 request for the GPMO will fund: Core government systems engineering functions for modernized systems; Government management and control functions for modernization; The systems, privacy and security standards consistent with the architecture and evaluations for compliance with these standards; and The development and maintenance of business cases and operational measures.

The $130.9 million for TSM Development and Deployment is funding projects approved by the Investment Review Board that have business value, are well managed, and are consistent with the Modernization Blueprint.

Question. The initial financial plan included funding for 291 FTE. Through the second quarter of fiscal year 1997, 21 FTE have been realized. Can we assume that TSM deployment and development will not need the total amount of funds budgeted for this activity?

Answer. The IRS is experiencing critical funding shortfalls in fiscal year 1997 for Year 2000, the replacement of DIS/RPS and funding the consolidation of service center mainframes. Additionally, the IRS lacks sufficient funds for critical information technology investment needed to improve customer service and compliance programs. Taken together, the IRS information technology needs for fiscal year 1997 far exceed available funds.

ELECTRONIC FILING

Question. Electronic filing provides savings, gives the taxpayers immediate acceptance of returns and furnishes rapid refunds. a) What has the IRS done to market this service to all taxpayers? In 1993, the IRS projected 80 million tax returns would be filed electronically by 2001. b) Do you believe the IRS can meet that goal?

Answers:

(a) Demographics/Psychographic analyses were completed for each return type and population segment. This information has been incorporated into marketing products that receive wide distribution.

Potential markets were created and categorized by return type, age refund, AGI and method of return preparation. This analysis was conducted for all states and distributed to Field Executives. These profiles will continue to used to develop marketing plans in conjunction with nationally developed marketing products.

A commercial advertising firm was hired to provide design, production and distribution assistance. A very aggressive campaign, with a major focus on our TeleFile Program, reached previously untapped markets.

The IRS used the Internet and electronic Bulletin Boards as the electronic exchange of information to educate taxpayers and practitioners.

We continue to conduct Tax Forums for the tax practitioner and electronic filing community to highlight, educate and market electronic commerce.

(b) The Electronic Filing Strategy Task Group Report (Rev. 5–93) was developed to produce one document to serve as the ELF Strategy, to identify new ways to attract taxpayers to the program, and to develop action plans to maximize the number of electronic returns. The report outlined 21 initiatives that, if all were implemented, would deliver 80.2 million electronic returns (69.8 Individual and 10.4 business) by the year 2001. Implementation of certain initiatives had a direct impact on the ability of the IRS to reach its goals. For example, one initiative required electronic transmission of returns from practitioners preparing 100 or more returns. The IRS is exploring other ways to expand electronic filing other than requiring mandatory electronic transmission of returns from practitioners. Another initiative was to allow the use of signature alternatives to eliminate the need for paper authentication. The IRS is still in the process of assessing the legal impact and assurance of authentication of signature alternatives and continues to explore and test several methods. The Office of A/C (Electronic Tax Administration) is currently working on revised goals.

Question. Under the current IRS capabilities, the taxpayers using electronic filing must sign and mail a signature form as formal proof or authentication. Can you explain where the IRS is in terms of the "authentication" and if all electronically filed transactions have the same level of authentication?

Answer. IRS is in the early stages of developing an authentication policy that will articulate alternative methods of signature for IRS' electronic tax administration programs. The future policy will: identify approved alternative methods for signature with applicable standards; determine the level of authentication needed for various types of transactions; and define the degree to which the environment will be paperless.

An interim policy may include a PIN and password approach along with other alternative methods for signature (e.g., digitized signatures, voice signatures, facsimile). The ultimate policy will also embrace digital signatures possibly based on a government-wide solution utilizing a public key infrastructure.

Question. Electronic filing costs the individual filer, but will provide the IRS savings in processing and personnel. Is there a way that the IRS can share the savings with the tax preparers and provide incentives for electronic filing?

Answer. The IRS is currently completing an in-depth analysis of determining the "Full Cost Burden" for filing paper and electronic returns. In addition, we are preparing to solicit the private sector for proposals on how they can assist us in achieving higher volume goals for electronically filed returns. Using these proposals and our "Full Cost Burden" analysis we will be better able to substantiate savings of electronic filing and pursue monetary incentives for the tax practitioner or individuals.

COMPLIANCE

Question. The Coordinated Examination Program was established to audit the nations largest corporations with assets of over $250 million. CEP audits consume approximately 20 percent of the Examination audit resources. How does this application of resources relate to the compliance levels of this industries? Is this an important analysis?

Answer. The CEP Program consists of approximately 1,700 of the largest and most complex taxpayers. Although not every return is examined, these taxpayers received extensive audit coverage. The audit results are substantial and our ERIS data indicates that we ultimately collect as much as 40 percent of the results. The CEP Program has been in existence since the 1960's and has evolved to meet the challenges of a global economy. The large deficiencies generated are not necessarily

indicative of intentional noncompliance but relates more to the complexity and gray areas of corporate tax law and also to aggressive tax accounting.

We continue to devote resources because of the potential and also because of the interest over the years shown by Congress. Most recently, a group of House Representatives have urged us to pursue the IRC Section 531 Accumulated Earnings Tax Penalty against large corporate stock buy-backs.

Question. IRS compliance accomplishments weigh heavily on compliance approaches. Two new programs have been developed to resolve interconnected pricing issues. The Advanced Pricing Agreement program and Accelerated Issue Resolution Program. Please explain why these programs are beneficial.

Answer. Both of these initiatives deviate from the traditional enforcement techniques we have historically used over the years to ensure compliance. The Advance Pricing Agreement Program (APA) is an ADR process which supplements the traditional administrative, judicial and treaty mechanisms for resolving intercompany pricing issues. Rather than ensuring compliance after the return is filed through an audit, the APA attempts to reach agreement with the taxpayer on the proper transfer pricing of future transactions. This allows the taxpayer to file more accurate tax returns with the correct tax. The IRS will make a cursory review of these returns to ensure that the taxpayer followed the agreement and the facts did not change.

Accelerated Issue Resolution (AIR) is another ADR technique used in the CEP Program to reduce the time span of the examinations and in the long run reduce resources committed by both the taxpayer and the IRS. It also encourages the resolution of issues at the Examination level as opposed to protracted administrative appeals or even litigation. AIR can be used with intercompany pricing issues but for the most part is used with domestic issues.

In many instances in large corporate audits, there will be the same recurring issues raised on a series of tax returns. AIR permits the examiners to extend the examination to all of the taxpayer's returns which have these recurring issues. The idea is to resolve the recurring issues simultaneously for all the returns now, rather than wait to audit these issues as the returns are placed in examination over the next few years.

Question. Please also explain the Tip Rate Determination Agreement and the Tip Reporting Alternative Commitment programs.

Answer. Millions of dollars of unpaid income and social security taxes are lost each year as a result of not reporting or underreporting billions of dollars of tip income. Generally, tips are taxable to the employee for income and social security tax purposes and are to be reported when tip income exceeds $20 in any month. Once the employee reports the tips to the employer, the employer is required to withhold income and social security (FICA) taxes from the reported tips as well as match the employee's social security tax. Tipped employees constitute a multi-billion dollar market segment.

The reporting of tip income and paying of income and social security tax by tipped workers in the food and beverage industry is among the lowest in any industry, with the exception of illegal activities.

A 1995 IRS study estimated that the amount of tip income voluntarily reported in 1993 was less than 60 percent of the true tip amount, leaving over $9 billion of unreported tip income. Underreporting of tip income by the employee puts the employer at risk for a significant contingent liability on the unpaid FICA (Social Security and Medicare) taxes and also puts the employee at risk for an unplanned income tax bill. This noncompliance also impacts State income tax revenue, worker's compensation and unemployment insurance programs, and the social security and Medicare trust funds.

In an effort to address this problem of non-compliance, the IRS has taken numerous approaches over the years to improve tip reporting compliance by tipped employees. Congress has amended the IRC as well to help increase compliance. Unfortunately, these efforts did not raise the income reporting compliance of tipped employees in the food and beverage industry.

The IRS recognized that a different approach to the problem of tip income reporting was needed and began to explore new methods to achieve voluntary compliance and at the same time reduce the tax burden for employees, employers, and the IRS. The IRS introduced the Tip Rate Determination and Education Program (TRD/EP) in 1993. There are two arrangements under this program, the Tip Rate Determination Agreement (TRDA) and the Tip Reporting Alternative Commitment (TRAC).

Under TRD/EP, employers are offered the option of either entering into a TRDA or a TRAC agreement. Under TRDA, the IRS works with the restaurant owner to arrive at a tip rate for the various occupations in the restaurant using historical data and information from the restaurant owner's books and records. At least 75

percent of tipped employees must sign a participation agreement. Participating employees must then report tips at or above the rate determined in the agreement.

During late 1994 and early 1995, a coalition of both large and small food and beverage representatives working in conjunction with the IRS came up with a new method to increase tip compliance—TRAC. What makes this tip initiative unique, is that the industry was directly involved in its development

Under TRAC, establishments in the food and beverage service industry sign an agreement with the IRS under which the establishment agrees to establish a reasonable procedure for accurate tip reporting by employees; institute a training program to educate employees of their tax reporting obligations as they relate to tips; and comply with all Federal tax requirements regarding the filing of returns, paying and depositing of taxes and maintaining records. If the employer stays compliant with the TRAC agreement, then the IRS agrees not to initiate any tip examinations of the employer or employees.

To give employers and employees in the food and beverage industry the tools they need to meet the educational requirement of the TRAC agreement, the IRS produced, developed and distributed a video and written materials. The title of the video is "Reporting Tip Income: On TRAC." The title of the brochure is "Tips on Tips." There is both a version for the employer and one for the employee.

As of March 31, 1997, the IRS has received more than 3,500 TRAC agreements representing more than 22,000 establishments. The number of TRDA agreements is more than 800 representing more than 1,100 establishments for the same period.

Employers in the food and beverage industry report to the IRS their gross receipts, charged sales, charged tips, and cash sales on Form 8027, *Employer's Annual Information Return of Tip Income and Allocated Tips.* Our latest analysis of these forms reveals that filings of Form 8027 and tips reported have been increasing steadily since the implementation of TRAC and TRDA Programs. Amounts reported are:

—1993—Gross receipts reported per Forms 8027 were 48.4 billion. Tips reported were $3.9 billion. The number of 8027 filings was 47,327.

—1994—Gross receipts per 8027's filed were $58.0 billion, with tips reported of $4.7 billion. The number of 8027 filings was 55,792.

—1995—Gross receipts reported were $59.7 billion, with tips reported of $5.2 billion. The number of 8027 filings was 56,986.

From the Form 8027 we can determine the composite tip rate being reported. For 1993 the tip rate was 8.1 percent, for 1994 it was 8.2 percent, and for 1995, it continued to climb, to 8.8 percent.

CRIMINAL INVESTIGATION DIVISION

Question. Does the IRS anticipate a growth in criminal activity associated with the growth in electronic money?

Answer. Electronic money and cyberbanking provide increased opportunities for the taxpayer to conveniently settle his/her tax liability with the government. But they also provide new techniques for criminals to accomplish crimes. Electronic payments, in all their various proposed forms, present financial regulators, tax administrators, and law enforcement agencies with potential problems similar to the Bank Secrecy Act (BSA), banking and 26 United States Code 6050(l) issues. Unregulated and anonymous movement of monies aided by the developing cyber-payment technology could cause safety and soundness problems in financial institutions, create new venues for financial fraud, allow for increased credit and consumer frauds, and devise new methods to assist in tax fraud and money laundering. When electronic transfers cross outside the U.S. borders, foreign assistance is crucial to trace the flow of money through layers and layers of foreign corporations and bank accounts, particularly when legitimate funds are commingled with illegally derived funds.

In the area of compliance with the tax laws, electronic commerce may create new variations on old issues as well as new categories of issues. The major compliance issue posed by electronic commerce is the extent to which electronic money is analogous to cash and thus creates the potential for anonymous and untraceable transactions. Another significant category of issues involves identifying parties to communications and transactions utilizing these new technologies and verifying records when transactions are conducted electronically. However, developments in the science of encryption and related technologies may lead to systems that verify the identity of persons online and ensure the veracity of electronic documents.

Question. How has the Internet's international access and influence affected the way law enforcement addresses financial crime in the future?

Answer. With the dissolution of geographic borders through use of the Internet, serious questions are raised concerning "foreign" activity in our country. U.S. News

& World Report stated in their October 28, 1996, edition, that there are some 40 offshore banking havens, holding assets estimated at $2 trillion to $5 trillion. Beginning with the weekly drawings of InterLotto by the International Lottery in Liechtenstein in 1995, gaming activity on the Internet has mushroomed to hundreds of sites with rapid growth predicted (International Gaming & Wagering Business, August 1996). If these foreign businesses are not in compliance with U.S. laws, how do we prevent them from operating here? How can we verify that a particular Web site is actually located where represented?

There is an enormous demand for U.S. currency throughout the world. U.S. currency is often the medium of exchange between foreign countries and can be easily exchanged for any other currency or vice versa. At the end of 1994, U.S. currency in circulation totaled approximately $405 billion. Of that amount, it is estimated that approximately two-thirds or $270 billion is being held by the underground or foreign interests. That means an estimated $135 billion is being circulated in the banking systems within the U.S. The reasons for this discrepancy are numerous, some legal and some illegal. Whatever the reasons, this data creates an urgent need for international cooperation.

Besides the off-shore tax-free banking, there are other tax dilemmas. The U.S. has extensive tax treaties with other countries that determine which country has the right to tax certain types of income and confer reciprocal benefits to residents of treaty countries. A quandary occurs when a buyer resides in one country and purchases products in a second country; however, to complete this business deal, the transaction is electronically conducted through several countries. For example, a company in England purchases goods stored in Brazil from a seller in the U.S., but has the goods delivered to Germany with payment made from an account in Hong Kong. Just trying to reconstruct this transaction could become a nightmare, but add tax implications and the problem gets bigger. Therefore, international cooperation will serve as the cornerstone to work through these tax administrative issues of using cybercurrency.

Because of growth in technology and a rapidly changing economic environment, tax evasion and money laundering have become an international problem. To put it simply, crime has no borders. Governments throughout the world are recognizing that money laundering and other financial crimes are no longer limited by the geographic boundaries of nations. Our CI Division has adopted an International Strategy to promote a financial disruption of major international criminal organizations. Wire transfers to and from foreign countries have increasingly been found in domestic investigations opening up new areas, geographic and otherwise, to our law enforcement agents. This strategy places primary focus on money laundering crimes although criminal tax enforcement is included in those countries which are receptive to the investigation of tax law violations.

With the advent of a global economy, this strategy will depend upon cooperation among the international law enforcement communities. The subject of international compliance cannot be addressed merely at home. As financial markets and economies of most nations become internationally intertwined, large-scale money laundering and other financial crimes have the potential to disrupt the stability of global economies. Therefore, our continued efforts to work together to foster international cooperation and joint compliance among our treaty partners and other economic allies is vital. The information we gained from international cooperation opens a window on how small the world is and how together we can meet the challenges presented by this latest technology of cybercurrency. Today, these types of exchanges among tax administrations are absolutely essential to developing consistent approaches to tax enforcement.

Question. Is the IRS's automated investigation system "FOCUS" in full operation?

Answer. The Automated Information Analysis System (formerly FOCUS) is currently being tested in Nebraska and Texas.

Question. Has FOCUS performed up to IRS Criminal Investigation Division's expectations?

Answer. We do not have any tangible results from the initial testing. Preliminary feedback from the districts has been positive. The effectiveness of the system has been somewhat limited by the restrictions as to the types of data that can be processed on the front end.

Question. Please explain how the system is used in predicting illegal financial activity.

Answer. The concept of FOCUS is to process large amounts of data and link the various financial transactions that may be indicative of income tax or money laundering violations. Historically, special agents have developed cases by taking a lead and then manually researching the various sources of information available to determine its potential. FOCUS is designed to reverse this process by electronically

analyzing all of the data sources on the front end and providing leads to the special agent to evaluate. In its final format, the system is intended to be a true "expert system" by incorporating the special agent's knowledge into the way the computer program evaluates the data. FOCUS is unique to virtually any other similar computer program in that it is largely address driven.

Question. Do any other law enforcement agencies have access to this system? Why?

Answer. The technology is available to other law enforcement agencies. We are currently working with U.S. Customs. However, the data that is being used by the IRS in Nebraska and Texas regarding tax return information cannot be shared with other agencies due to IRC 6103 which protects tax return information from disclosure to other agencies unless specifically authorized in IRC 6103.

Question. In IRS' view, has the Suspicious Activity Reports (SAR) initiative provided viable leads for investigative personnel in combating money laundering schemes?

Answer. Since April 1, 1996, financial institutions have been required to file SAR forms which are maintained in a database at the Detroit Computing Center (DCC). Internal Revenue-Criminal Investigation (IRS-CI) has created a National General Investigation (GI) number to track all Primary Investigations (PI) initiated for the evaluation of SAR information received from DCC. This number is used to track resource commitments and program accomplishments. The National GI number is not used when a CI district office evaluates an SAR form developed at the district level independent of the DCC.

The following statistics from the IRS-CI Criminal Investigation Management Information System (CIMIS) illustrate the number of PI's where the SAR was the source of information used to open the PI. These PI's were then tracked to determine how many evolved into a Subject Investigation (SI). Finally, the SI's are broken down into the current status or disposition.

Fiscal year 1996	Number	Percent
Primary Investigation	1,853	.....
Subject Investigations	126	6.80
SCI Discontinued Investigations	44	34.92
SCI Prosecution Recommendations:	19	15.08
SCI in Inventory	63	50.00
Total	126	100.00

Fiscal year 1996 YTD	Number	Percent
Primary Investigation	925	.....
Subject Investigations	26	2.81
SCI Discontinued Investigations	.....	.....
SCI Prosecution Recs	1	3.85
SCI in Inventory	25	96.15
Total	26	100.00

It should also be noted that only those PI's whose initial source of information was an SAR are reflected here. The SAR's are also used along with CTR's and Form 8300's as an additional source of information for special agents in situations such as following a money trail, establishing ownership of the currency, or they can be utilized in indirect methods cases for determining cash deposits and withdrawals. In those situations, the SAR is not listed as the source of information in CIMIS and is, therefore, not reflected in the statistics above.

It is important to remember that this form has only been in use for 15 months. Additional time is needed for these cases to be completed. Perhaps, by the end of fiscal year 1998 we will have a clearer picture of the SAR's usefulness.

Question. Would the SAR be valuable as an investigative tool in any other area of the financial community?

Answer. The SAR contains information which would be useful to all aspects of the financial community involved in enforcement. Currently, there are proposed rules which will define a Money Services Business (MSB), formerly referred to as Non-Bank Financial Institution (NBFI). These rules also establish filing requirements for

the MSB under the Bank Secrecy Act. The rules will likely go into effect sometime next Spring. At that time, these MSB's will establish an enforcement mechanism which law enforcement could use this information to enhance their efforts.

FINANCIAL MANAGEMENT

Question. What is IRS' schedule for implementing GAO's recommendations for improving the Service's Financial Management?

Answer. In his testimony before the Committee, Acting IRS Commissioner Michael Dolan stated that of the 59 original recommendations made by GAO as a result of their financial statement audits, we and GAO agree that we have completed 22. Of the remaining 37, 23 are completed and awaiting GAO's concurrence, 14 are scheduled to be completed by September 30, 1997, and 5 are scheduled to be completed after September 30, 1997. We prepared a detailed action which addresses all the recommendations and provided a copy to the Committee on February 28, 1997. As shown in that action plan, the final actions, which are related to improving our tax accounts receivable, are scheduled to be completed by September 30, 1998.

Question. Specifically, can appropriations available for operations expenditures be reconciled fully with Treasury Central Accounting Records?

Answer. Yes, appropriations available for operations expenditures can be reconciled fully with Treasury Central Accounting Records. There is an automated mechanism in place to ensure that these balances are reconciled monthly.

Question. And, can the IRS reconcile its cash balances to Treasury's records through fiscal year 1996?

Answer. Yes, the IRS has reconciled cash balances to Treasury through fiscal year 1996.

CONCLUSION OF HEARINGS

Senator CAMPBELL. That concludes the hearings. The subcommittee will recess and reconvene at the call of the Chair.

[Whereupon, at 11:32 a.m., Thursday, June 19, the hearings were concluded and the subcommittee was recessed, to reconvene subject to the call of the Chair.]

MATERIAL SUBMITTED BY DEPARTMENTAL AND INDEPENDENT AGENCIES NOT APPEARING FOR FORMAL HEARINGS

[CLERK'S NOTE.—The following departmental and independent agencies of the Department of the Treasury and the Executive Office of the President did not appear before the subcommittee this year. The subcommittee requested that these agencies submit testimony in support of their fiscal year 1998 budget request. Those statements and questions and answers follow:]

DEPARTMENT OF THE TREASURY

BUREAU OF THE PUBLIC DEBT

PREPARED STATEMENT OF RICHARD L. GREGG, COMMISSIONER

Mr. Chairman and members of the Subcommittee, I am pleased to have the opportunity to present the following information regarding the Bureau of the Public Debt's fiscal year 1998 budget request. Our request is reasonable and continues Public Debt's established track record of doing more with less and making the difficult decisions needed to make this possible.

BUREAU MISSION

Public Debt is responsible for the sale, servicing and redemption of Treasury securities to handle the government's financing needs, and for accounting for the resulting debt and related interest costs. To accomplish our mission, we work closely with the Federal Reserve Banks that act as our fiscal agents. In addition, we are responsible for marketing savings bonds.

FISCAL YEAR 1998 BUDGET REQUEST

This year's request totals $173.8 million, an increase of 2.4 percent from our fiscal year 1997 enacted level of $169.7 million. Our staffing levels remain at 1,805 FTE, unchanged from the fiscal year 1997 enacted level. This is the first funding increase Public Debt has requested since fiscal year 1993. In fiscal year 1993 our appropriation was $194.6 million and 1,935 FTE. Our fiscal year 1998 request represents a 14.7 percent decrease in dollars and a 7.2 percent decrease in FTE from those fiscal year 1993 levels. These savings have been achieved through consolidation to Parkersburg and on-going management efforts to streamline functions.

Nearly all of the requested funding increase is to cover the fiscal year 1998 pay raise and other inflationary cost increases. The only non-inflationary funding increase in our request is $460,000 that we need to begin offering a new security. Last September, President Clinton announced that Treasury would begin issuing an inflation-indexed savings bond in 1998. This new savings bond is to follow the introduction of a new marketable inflation-indexed security (the first of which was issued in early February). These securities are designed to strengthen national savings by broadening the types of debt instruments available to investors and by offering Americans an investment that provides protection against inflation. We also anticipate that taxpayers will benefit as these securities are expected to reduce Treasury's financing costs.

Our fiscal year 1998 request provides sufficient funding for us to accomplish our annual performance plan and continue progress toward our long-term strategic goals.

CONSOLIDATION SAVINGS

I would like to mention to the Subcommittee that, since our last hearing, we completed the consolidation of most of our operations in Parkersburg, West Virginia. This major Public Debt initiative has been an overwhelming success and was a product of Public Debt's long-standing strategic planning process. The cost savings and other benefits from the consolidation have significantly exceeded our original expectations. Our operations are now more integrated and better controlled. Our staffing is more predictable. And most important, our customers are better served. Further, the consolidation has enabled us to submit reduced budget requests for fiscal years 1994 through 1997. The budget reductions from our consolidation have resulted in an on-going annual savings of $15 million and 300 full-time equivalent work years. I appreciate the Subcommittee's support for this important initiative.

AUTOMATION

Public Debt is an organization that emphasizes the effective use of technology to improve operations. Our strategic planning process identifies and sets priorities for automation projects. As you well know, many Federal agencies are currently facing the same unavoidable challenge—modifying their automated systems to ensure that they will operate past 2000. Our strategic approach to make sure that our systems are ready is well underway and we do not expect to need any funding increases to make the necessary changes.

STRATEGIC GOALS

Our long-term goals are straightforward and succinct:
I. borrow what is necessary to meet the monetary needs of the Government,
II. minimize the cost of borrowing to the Federal Government,
III. provide for participation by a wide-range of investors in Treasury financing,
IV. protect investors in government securities,
V. provide quality customer service to investors in Treasury securities, and
VI. provide accurate and timely public debt accounting information.

We have established strategies that support these goals. The strategies include the extensive use of technology to serve our customers and support our internal operations as well as an emphasis on simplifying the regulations and procedures that affect our customers. We plan, for example, to provide our investors with ever-increasing amounts of information electronically. This includes not only general information about Treasury securities but also account-specific information about holdings and account status. We also plan to offer investors the option of purchasing securities electronically.

STRATEGIC MANAGEMENT PROCESS

We have recently incorporated the requirements of the Government Performance and Results Act (GPRA) into our planning process. This law fundamentally changes the approach to Federal management and accountability from a focus on inputs and processes to a greater emphasis on outcomes and programmatic results. In essence, GPRA requires that we tell you what each of our programs is intended to do in the long-term, specifically what we intend to achieve each year, and, finally, what we achieved.

The performance plans required by GPRA are now an integral part of the budget documents we send to you each year. In our fiscal year 1997 budget request, we incorporated measures of program performance in addition to the traditional output-oriented workload measures. For fiscal year 1998, we have included a more comprehensive set of measures for our programs. We believe that our measures reflect the key elements of our responsibility, provide meaningful information about our programs, and are currently set at levels that provide excellent customer service and superior operational performance.

FISCAL YEAR 1996 ANNUAL PERFORMANCE GOALS

Public Debt's Saving Securities Program had two fiscal year 1996 performance measures. The first was to issue 95 percent of over-the-counter savings bonds in three weeks. In fiscal year 1996, we substantially exceeded this goal and were able to issue 99 percent of these bonds timely.

The second measure, to complete 80 percent of customer service transactions in six weeks, represented a real stretch for our organization. We set this goal as part of an overall plan to improve customer service. In 1993, we were completing 13 percent of our transactions within this time. In fiscal year 1996, our employees made remarkable progress but fell just short of our 80 percent goal-we achieved 79 per-

cent. While the 80 percent standard was not met for all of fiscal year 1996, we were exceeding the standard by the end of the year and have continued to exceed the standard and improve service.

We established three measures for our Marketable Securities Program in fiscal year 1996. The first was to announce auction results within one hour, 90 percent of the time-we achieved 97 percent. The second measure was to complete 90 percent of TREASURY DIRECT customer service transactions within three weeks. Our performance was 95 percent. We met our third performance measure by establishing 99 percent of Treasury Direct accounts accurately.

CLOSING

I appreciate this opportunity to present the major policy and management issues facing the Bureau of the Public Debt in fiscal year 1998.

FINANCIAL MANAGEMENT SERVICE

PREPARED STATEMENT OF RUSSELL D. MORRIS, COMMISSIONER

Chairman Campbell, Senator Kohl, and members of the Subcommittee, thank you for the opportunity to submit the Financial Management Service's (FMS) fiscal year 1998 budget request and related issues. We are requesting an appropriation of $202,560,000 and 2,029 FTE.

We have always enjoyed and benefited from the bipartisan support of the Subcommittee. That support transcends budget dollars that, more and more, are in short supply. This Subcommittee has had high expectations of FMS; they have depended on us to lead the way in reforming and modernizing the government's financial practices.

OVERVIEW

FMS is a relatively small agency that provides payments, collections, accounting information and debt collection services to all Federal Agencies and every individual who receives money from the government or pays a bill owed to the government. We operate from seven locations in the United States, but we support government operations world-wide. While our production statistics are in the millions, billions, and trillions, our unit costs are measured in pennies. We are especially proud of the fact that FMS received nine Hammer awards, which are recognition awards given by the Vice-President for creating more efficient and effective ways of serving taxpayers. These awards were received in program areas related to FMS mission functions such as debt management services, financial information services, electronic funds transfer, and regional operations.

Our central roll within the government, benefits the taxpayers as it creates efficiencies based on enormous volumes, allows Treasury to administer prudent financial management policies, and facilitates the collection of delinquent federal debt. The Debt Collection Improvement Act of 1996, Public Law 104–134, enacted last April was devised to take advantage of the fact that FMS issues most of the government's payments. The Law mandates that FMS offset payments to collect debts due the government before we pay anyone who is a delinquent debtor.

FMS disburses payments to a wide array of federal recipients including those who receive Social Security, Veterans benefits, Civil Service Retirement, and Internal Revenue Service (IRS) tax refunds. FMS disbursed over 840 million payments during fiscal year 1996 on time. Our payment operations touched the lives of well over 100 million citizens last year.

As this Subcommittee is well aware, FMS is transforming its payment operations by moving from paper checks to electronic funds transfers (EFT). We are making an aggressive transition in order to comply with a provision of the Debt Collection Improvement Act of 1996 (DCIA) that requires virtually all federal payments to be issued by some form of EFT by January 1, 1999. Presently about 57 percent of all payments are disbursed by EFT, most through the Direct Deposit program. The initiative was proposed by FMS and supported by members of this Subcommittee. I will address our EFT implementation efforts in detail later in my testimony.

FMS manages the processing of all collections for corporate and individual income taxes, custom duties, federal fines, and other levies. We manage the world's largest collection network of over 17,000 financial institutions.

One of our major goals, in partnership with the IRS, is to continue to make the nation's tax collection system more efficient for taxpayers as well as the government. To this end, we are shifting from paper-based to electronic systems. During

fiscal year 1996, FMS collected over $400 billion in corporate withholding taxes using electronic systems. We anticipate that the rollout of the Congressionally mandated Electronic Federal Tax Payment System will dramatically increase electronic collections—to about $1 trillion—by the turn of the century.

FINANCIAL REPORTING

FMS also manages the central accounting and reporting systems that track the government's monetary assets and liabilities. FMS tracks and reports on enacted Congressional appropriations, some 7,500 separate accounts.

FMS publishes the government's major financial and budgetary reports that are used by the public and private sectors to make policy and economic decisions. These reports include: the Daily Treasury Statement; the Monthly Treasury Statement; the Treasury Bulletin; and the U.S. Government Annual Report and Appendix.

The Government Management Reform Act (GMRA) of 1994, directed all major federal agencies to prepare audited financial statements in order for the government to function in a more businesslike manner. GMRA mandates that Treasury issue the first audited government-wide financial statements beginning with fiscal year 1997, by March 31, 1998.

FMS is responsible for managing the preparation of the new audited financial statements and is working diligently with every federal agency, the Office of Management and Budget (OMB) and the General Accounting Office (GAO) to meet this requirement. We are requesting an appropriation of $2.5 million to upgrade the Government On-Line Accounting Link System (GOALS), a computer system that provides on-line information to federal agencies and is the foundation of the government's central financial systems. The requested computer enhancements are needed to maintain and improve the integrity of the government's financial data which is imperative to complying with the Chief Financial Officer Act and GMRA.

DCIA

The debt collection legislation that I noted earlier, the DCIA, significantly increased FMS' responsibility to facilitate the collection of delinquent federal non-tax debt. We are in the process of implementing many provisions of the legislation. On behalf of FMS, I would like to thank this Subcommittee for its strong support of the DCIA.

The debt collection statute was enacted to improve federal financial management by decreasing the amount of past-due non-tax debt, now estimated at more than $51 billion. We have always felt that the fair, prompt, and efficient collection of delinquent federal debt is sound financial policy, so we view full implementation of this bill as critical to performing our basic mission.

The legislation created several new debt collection processes and tools, all of which require thorough coordination with other federal agencies and the issuance of complex regulations. FMS has met with over 1,700 federal agency employees who are responsible for carrying-out the provisions of the DCIA and we have met with numerous groups and individuals that may have a stake in implementing this statute.

One of the most important debt collection tools mandated by the DCIA is the Treasury Offset Program (TOP). This provision requires FMS to utilize Treasury's payment operations to administratively offset federal payments before they are issued to delinquent debtors. TOP has already collected over $300,000 with only a few agencies participating at this time. The law requires all agencies to provide FMS with their payment and non-tax delinquent debt information for offset. Once the program is fully operational, TOP will include all payments, including non-Treasury disbursed payments and all delinquent debt over 180 days, including delinquent child support debt. TOP will also include current programs such as the Tax Refund Offset Program and the Federal Salary Offset Program.

The largest existing delinquent debt collection mechanism, the Tax Refund Offset Program (TROP), is currently administered by the Internal Revenue Service and FMS, and has been operational since 1987. Under TROP, the tax refunds of debtors are utilized to pay off their delinquent debts. Thus far, the program has recouped over $7 billion. The IRS and FMS have agreed to merge TROP with TOP beginning January 1, 1998. This merger will create efficiency in administering the programs and make the process less complicated for federal agencies and debtors.

An additional piece of the DCIA authorizes Treasury to help collect State debts such as past-due child support payments. In September, President Clinton issued Executive Order 13019, Supporting Families: Collecting Delinquent Child Support Obligations, to ensure that all federal agencies work with Treasury to collect past-

due support. We will enter into agreements with States that voluntarily seek our help to collect these vital monies.

The DCIA also included important provisions that can be used to assist families in collecting past-due child support obligations. The law allows the Federal government to partner with the states to collect child support obligations through the administrative offset program. Currently, eight states and the District of Columbia have taken the initial steps in participating in this program and over 725,000 delinquent parents have been notified that their Federal payments could be seized to satisfy delinquent child support debts. All 50 states are expected to participate in this program. The jurisdictions currently participating are: Alaska; Arizona; California; Connecticut; the District of Columbia; Kansas; Oklahoma; Oregon; and South Dakota. Another major component of DCIA is the mandate that all Federal Agencies refer non-tax debts that are more than 180 days delinquent to FMS for collection. FMS is working with agencies on an individual basis to develop systems to electronically transfer this debt. FMS will soon issue a Request-For-Proposal to begin the process of hiring private debt collection agencies to help collect delinquent non-tax debts. FMS agrees with the sentiment of Congress that utilizing the talents of private debt collectors is an efficient and effective method to recoup past-due monies. Overall, collections are anticipated to be over $100 million annually over current collections.

EFT

As I stated previously, the DCIA contained a provision requiring that virtually all federal payments, with the exception of IRS tax refunds, be issued by some form of Electronic Funds Transfer (EFT) by January 1, 1999. We have encouraged agencies and financial institutions to use EFT because electronic payments are more reliable, less expensive and safer than payments made by check.

We implemented the first phase of the EFT mandate when on July 26, 1996, FMS issued a regulation that required all new recipients of federal funds to receive their money by EFT. Consistent with the law, the rule exempted tax refund payments and granted waivers for recipients who did not have bank accounts. This phase of the law has already paid dividends. FMS' EFT payments rate for January 1996 was 56 percent while the EFT payments rate for January 1997 was 60 percent.

The task of meeting the 1999 mandate—conversion of nearly 400 million check payments to EFT—is infinitely more challenging. To help ensure the success of this unprecedented program, FMS is receiving support from the Department of the Treasury.

FMS expects to issue a proposed rule to implement the 1999 mandate in the summer that will cover an array of sensitive issues related to: disbursing electronic payments to recipients who do not have bank accounts, including cost, access and consumer protection needs of recipients; electronic data interchange/vendor payments; and the establishment of a national federal Electronic Benefits Transfer (EBT) program. We expect that a final rule will be published by early fall.

The EFT 99 project is transforming FMS and segments of the financial community. Its success is imperative if we wish to provide first rate payment services at the lowest possible cost.

GPRA

FMS has worked diligently to implement the Government Performance and Results Act (GPRA) of 1993. GPRA levies three major requirements on federal agencies for the fiscal year 1999 budget cycle: strategic plans, annual agency performance plans, and annual agency performance reports. Our work has been commended and cited as an example to other agencies by the OMB and the GAO.

FMS has relied on strategic planning for about 15 years. We have been measuring our programs' performance systematically since the passage of the Chief Financial Officers Act. FMS is especially proud of our accomplishments in performing a "dry run" of GPRA over the past year for the fiscal year 1998 budget cycle.

FMS continues to review performance measures and their relevance to program goals resulting in four overarching strategic measures:

—Dollar savings by reducing the number of check payments;
—Dollar value of electronic collections as a percentage of total collections;
—Percentage increase over fiscal year 1997 baseline of FMS-managed government-wide collected delinquent debt; and
—Decrease in prior year recommendations and audit findings that prevent a clean opinion of the audit of the Consolidated Financial Statement of the U.S. Government.

The measures are the foundation of our Annual Performance Plans as shown in the budget. We look forward to further refining our approach to GPRA implementation during the fiscal year 1999 Budget process.

YEAR 2000

FMS is heavily dependent on automated systems. Like most agencies of the government, FMS faces the challenge of adapting its systems to the date change—the Year 2000 computer problem. Correcting this problem is one of our highest priorities since both public and private sector customers rely on our products and the accuracy of the information associated with these products. We are requesting an additional $2 million for resources which will help make automated systems year 2000 compliant, work that is absolutely essential to our operations and to the integrity of our systems for paying, collecting, and accounting for money government-wide. I want to assure you that we are asking for funding for this initiative, and the GOALS initiative, only because we simply have no way to absorb these costs. Due to the nature of FMS' mission and the fact that virtually all program activities are mandated by statute, it is necessary to request these additional funds since no base programs can be eliminated or postponed and we have worked very, very hard to achieve all possible cost recoveries.

LEGISLATIVE PROPOSAL

Finally, FMS is requesting Congress' consideration and support for an important legislative initiative in fiscal year 1998. The President's budget proposes to create a permanent, indefinite appropriation to reimburse Federal Reserve banks for their services as fiscal agents for Treasury's Fiscal Service. Proposed language to establish the fund is included in FMS's justification. This initiative is needed to create an accurate accounting for the cost of financial services provided to Treasury by the Federal Reserve. The proposal is deficit neutral. This legislation would enable Treasury to improve service to its customers by expediting the development and completion of financial projects by Federal Reserve banks. The proposal will also provide FMS opportunity to more fully use activity based costing methods to accurately identify program and product costs.

Thank you for allowing me the opportunity to discuss FMS' mission and successes. I would be happy to answer any further questions you have regarding FMS.

OFFICE OF THE SECRETARY

PREPARED STATEMENT OF ROBERT E. RUBIN, SECRETARY OF THE TREASURY

Chairman Campbell, Senator Kohl, members of the Committee: I appreciate the opportunity to submit testimony on the Treasury Department's fiscal year 1998 budget request. Today, our national economy is strong. In large measure due to the deficit reduction program of 1993, and the economic growth that it generated, the deficit has fallen from close to five percent of GDP to an estimate of roughly one percent of GDP for 1997. That deficit reduction was key to reducing interest rates and increasing confidence, which, in turn, drove our recovery. Today, unemployment is at 4.8 percent, inflation is low, and the economy has generated over 12 million new jobs. Treasury's budget is constructed to be consistent with the objective of continuing the economic progress of the last four years.

The Treasury plays a key role in the core functions of government: tax policy, banking policy, revenue collection, federal law enforcement, management of the federal debt, economic policy development, budget policy, international economic affairs, inner city economic development, the processing of federal payments and the manufacture of our nation's currency. With such a broad portfolio, we take very seriously the notion that we must continually seek new ways to improve services and lower costs. As Secretary, I have been interested in and very focused on management.

In our fiscal year 1998 budget request of $11.7 billion, funding is proposed for the most essential operations. The operating budget of $11.2 billion, excluding the information technology fund for the Internal Revenue Service, is 4.2 percent over the fiscal year 1997 appropriated level. Our request maintains current service levels for all of Treasury's operations, while proposing important advancements for a few Department programs and priorities.

In accordance with the Government Performance and Results Act (GPRA), we are focusing resources on the highest priorities; changing our focus from input to results; and expanding cooperation among managers, workers and stakeholders. I am

pleased to report that Treasury's budget this year is in compliance one year ahead of time with all requirements mandated under the government's strategic planning guidelines.

The fiscal year 1998 request continues funding to help develop innovative economic, financial, enforcement and tax policies. This level will also provide the flexibility needed to meet Treasury's growing demands in areas such as expanded oversight of major law enforcement operations, reform of international financial institutions, ongoing tax code improvements, and policy implications of electronic payments and other complex financial instruments.

Let me now highlight some budget items focusing on three key Treasury missions—law enforcement, management of the government's finances, and promotion of a prosperous global economy.

LAW ENFORCEMENT

Treasury is responsible for more than forty percent of the federal government's law enforcement personnel. We are requesting new resources to combat violent crime; decrease availability of illegal drugs and other contraband; protect designated officials; continue counter-terrorism efforts; and upgrade law enforcement equipment, skill levels and facilities. Let me mention a few of our priorities.

Requested funds will enhance Treasury efforts to decrease the availability of illegal firearms to criminals and juveniles, especially the Bureau of Alcohol, Tobacco and Firearm's successful Kids and Guns initiative. We also seek new resources for Customs to fight narcotics trafficking and other illicit smuggling activity at our borders.

Financial crime enforcement continues to be a high priority. The profits of crime that are laundered into the United States' financial system each year are staggering and detrimental by any calculation, and the losses attributable to financial fraud—such as bank fraud and access device fraud—are a threat to financial transaction systems. We will enhance our tools in support of essential financial crime investigations to protect our financial institutions better and to trace illicit profits to their criminal sources.

Money laundering and other financial crimes should be recognized as clear threats to financial institutions, and enforcement of financial crime statutes should be recognized as an avenue for law enforcement to attack the leaders of drug gangs and organized crime. The fiscal year 1998 budget provides funds to continue efforts by the IRS, the Financial Crimes Enforcement Network, Customs and the Secret Service, in cooperation with other law enforcement agencies, to address money laundering.

Additional resources for the Secret Service will be used to support the continued implementation of outstanding White House Security Review recommendations. We must maintain our vigilance in discharging our protective mission by employing methods to detect and confront security threats before they surface.

We also continue to emphasize counter-terrorism efforts. Customs will continue aggressively to promote protection at airports through automated targeting, non-intrusive inspection systems, and increased enforcement presence. The Bureau of Alcohol, Tobacco & Firearms will work to decrease explosive and arson crimes through the canine explosives detection program, explosive inspections, and an arson clearinghouse.

We also seek to upgrade law enforcement equipment, skill levels, and facilities for ATE, Customs, the Secret Service, and the Federal Law Enforcement Training Center.

EFFECTIVELY MANAGE THE GOVERNMENT'S FINANCES

New resources will enable Treasury to manage the tax administration process to improve compliance with tax laws, advance the Government's fiscal and financial management, and secure effective and efficient information systems.

Last year, we promised a sharp turn in program direction at the IRS. I am pleased to say that the commitments made last year have been kept, including, for example, hiring a new CIO, dramatically increasing the use of the private sector, implementing a new Investment Review process, and establishing the Modernization Management Board. Last week, President Clinton issued an Executive Order institutionalizing Treasury Department oversight of IRS management. This Executive Order makes permanent the Internal Revenue Service Management Board created by the Treasury Department last year. The Department will also establish a blue ribbon Advisory Committee, reporting directly to the Secretary of the Treasury, which will bring private sector expertise to bear on the management of the IRS. In addition, we have canceled several major contracts and collapsed over 30 separate

modernization projects into a more manageable nine. We plan to introduce legislation to give the new Commissioner greater management flexibilities and to appoint the Commissioner for a five-year term.

Changes of this magnitude at the IRS will take time, just as the problems developed over a considerable period of time. Let me state unambiguously that the Treasury remains committed to modernizing the IRS. We believe that it is essential for the Administration and the Congress to work together to improve the functioning of our tax administration system, and in my time at Treasury, this committee has played a major role in bringing effective focus to bear on the relevant issues.

The Internal Revenue Service, Financial Management Service, Departmental Offices, Alcohol, Tobacco and Firearms and Secret Service are also requesting funds to ensure that technology systems will not be affected by the Year 2000 date changes. These systems are critical to core government functions such as cash management, payments, collections, accounting, and financial reporting.

Finally, a priority for Treasury is to develop and implement policies relating to fiscal and financial issues such as electronic money and other complex financial instruments.

PROMOTE A PROSPEROUS WORLD ECONOMY

Treasury plays a key role in fostering global economic growth and stability, in order to further U.S. economic and national security interests. Treasury has been actively involved in issues ranging from assistance to Russia, help in reconstructing Bosnia, and emergency support for Mexico, which, as you know, has repaid the U.S. Government in full, principal and interest, including a profit of $580 million. Most of the funding for these priorities is through our commitments to the World Bank, the regional development banks, the International Monetary Fund, and the New Arrangement to Borrow, and are under the jurisdiction of another subcommittee. But let me just mention a couple of priorities in this area that are under the jurisdiction of this committee.

The fiscal year 1998 budget proposes to strengthen the Department's capacities to engage in opening new markets for trade and investment, reducing financial risks throughout the world and forging links with emerging markets. We also seek to upgrade equipment for the Customs Service to support a more effective, trade law compliance and maintain analytical parity with its counterparts in other countries.

Mr. Chairman, let me mention two final areas that are priorities for Treasury. First, a high priority for Treasury is to strengthen the soundness of financial institutions in this country. The Offices of Thrift Supervision and the Comptroller of the Currency continue to play a major role in ensuring bank and thrift safety and soundness in order to advance a strong national economy. The Office of the Comptroller of the Currency has been designated as the lead to coordinate Treasury's efforts to study the issues related to electronic money. In addition, the OTS and OCC are downsizing in response to the consolidation of financial institutions.

Second, President Clinton strongly believes that it is critical to the economic well-being of all Americans, no matter where we live, or what our incomes are, that we bring the residents of America's inner cities and other economically distressed areas into the economic mainstream. Treasury is actively involved in this effort, through measures such as the Community Development Financial Institutions Fund, which provides much needed investment capital to distressed urban and rural communities. Our budget includes $125 million for this critical program, which last year drew more than 260 applications for over $300 million in assistance, demonstrating the market demand and potential for this program.

Mr. Chairman, let me conclude by saying that I appreciate the assistance and cooperation that I have received from this Subcommittee since coming to Treasury. I look forward to maintaining that cooperation as we move forward.

It has been my great honor to serve as Treasury Secretary for the last two years. In that time I have been continually impressed by the high quality of Treasury employees. They are professional, very knowledgeable about their various fields of expertise, extremely dedicated to their work, and to serving the public. The people at Treasury are our greatest resource. They deserve our respect and support, especially as we go through the difficult process of reaching budget balance.

Mr. Chairman, with such a dedicated and talented team, with the close cooperation of Congress and the Administration, and with the appropriate funding for the Treasury Department, we will be able to maintain—and improve—the high level of service you have come to expect from the Department. Thank you very much.

QUESTIONS SUBMITTED BY SENATOR CAMPBELL

BUDGET STRUCTURE

Question. In looking over the IRS' fiscal year 1998 budget request, IRS has asked Congress to allow the IRS to restructure their budget into three categories: (1) Processing, Assistance, and Management, (2) Tax Law Enforcement, (3) Information Systems. Although this may be more in line with what IRS is trying to accomplish on the management side, I am concerned that this new structure may be harder for Congress to track how IRS is spending its money. Can you comment on this new structure?

Answer. There are some elements of the restructuring that may make it easier to track how IRS is spending its money. For example, IRS' restructuring includes (1) a consolidation of what were four different resources management budget activities into a single Management Services activity and (2) creation of a separate budget activity for rent and utilities. Other elements of IRS' restructuring could make tracking more difficult. In that regard, one major restructuring involves what used to be the "Taxpayer Services" budget activity. That activity, which is part of IRS' Processing, Assistance, and Management appropriation, was renamed "Telephone and Correspondence" and was revised to combine various assistance programs with compliance activities conducted by phone and correspondence. At the same time, the restructuring transfers certain face-to-face customer service activities to the Tax Law Enforcement appropriation. Specifically, funds for the Taxpayer Education Program are now included in the Examination budget activity and funds for the Taxpayer Walk-in Assistance Program are now included in the Collection budget activity. While these changes may be consistent with IRS' plans for managing the related programs, they do make it difficult to separately track how much is being spent on customer service and compliance. Also, such changes in budget structure make it difficult, if not impossible, to assess spending trends over several years. With respect to the proposed structural changes in the fiscal year 1998 budget request, for example, IRS revised its fiscal year 1997 figures to coincide with the revised structure but figures for fiscal years before 1997 are not comparable.

INFORMATION TECHNOLOGY

Question. As part of their fiscal year 1998 budget request, the IRS is asking for a $500 million advance appropriation for Information Systems, which is not to be obligated during fiscal year 1998. It is to be an up-front investment by Congress to demonstrate that we are committed to the modernization effort. You mentioned about the $500 million fiscal year 1998 capital investment for IRS' modernization effort in your testimony. Can you comment further?

Answer. As we stated in our testimony, IRS is requesting $500 million in fiscal year 1998 and another $500 million in fiscal year 1999 to establish an Information Technology Investments Account to fund future modernization investments. According to IRS' request, the funds are to support acquisition of new information systems. The request also stated that expenditures from the account will be reviewed and approved by Treasury's Modernization Management Board, and no funds will be obligated before July 1, 1998. We cannot comment further at this time because IRS has provided no additional details on what it plans to do with the $1 billion nor any justification for spending these funds.

Question. What would happen to the nation's tax collection system should Congress withhold modernization funding as you suggest?

Answer. Although IRS attempts at modernization over the last 10 to 15 years have largely failed, IRS continues to collect taxes and process returns at levels it deems to be successful. This is because the operation and maintenance of existing systems is appropriated separately from the funds to modernize, i.e., to develop new systems to do IRS' business in new and better ways. Therefore, if Congress decides to withhold modernization funds (and only provides funds for current operational systems) until IRS strengthens identified management and technical weaknesses, IRS will continue to maintain and rely upon its operational systems and will continue to collect taxes and process returns as it does today. IRS' performance in collecting delinquent taxes would also remain the same. As we have reported, IRS' performance in that area has generally been poor due to inefficient processes and systems.[1] However, as evidenced by the lack of significant improvement despite the substantial amount of modernization funds appropriated over the past several years,

[1] "High-Risk Series, IRS Management" (GAO/HR–97–8, February 1997).

funding, in and of itself, will not correct those inefficiencies nor improve IRS' performance.

Question. Can you provide any insight to this subcommittee on what the IRS intends to spend these funds on?

Answer. According to IRS' fiscal year 1998 budget request, the $500 million, along with $500 million being requested in fiscal year 1999, is to establish an Information Technology Investments Account to fund future modernization investments. IRS has said it plans to use the funds to support acquisition of new information systems but has provided no further detail. It has also said that expenditures from the account will be reviewed and approved by Treasury's Modernization Management Board, and no funds will be obligated before July 1, 1998.

Question. The Request For Comment on the Prime Contractor of IRS' new modernization plan, calls for a $250 million up-front investment by the Prime and only a three-year contract. In your assessment, is the size of the investment appropriate? Do you feel the Prime can recoup its investment within the three years?

Answer. Until IRS completes the architectural blueprint, provides defining details and a timeline for the sequencing plan, and develops the cost estimates for implementing these plans, we cannot assess whether the $250 million is an appropriate up-front investment and whether or how it could be recouped within three years.

STRATEGIC PLANS

Question. This year, agencies are consulting Congress on their strategic plans as part of the Government Performance and Results Act, which is a process to help agencies establish priorities, measure their performance and align their budgets to fit their mission. Can you highlight where you think IRS is doing a good job in their strategic planning and where they are having difficulty?

Answer. In response to a congressional request from the House Majority Leader and several chairman of various House Committees, we are currently evaluating all departmental strategic plans to determine whether they comply with requirements of the Results Act. As a part of that effort we are reviewing the Department of Treasury' strategic plan and the plans of each agency under the purview of Treasury, including IRS. Our response is based on our preliminary review of IRS' current strategic plan. In the mid-1980's IRS developed a strategic plan that included a mission statement, objectives, and strategies for meeting those objectives. Since then, IRS has been refining its strategic planning process to (1) establish a better linkage between strategic planning and IRS' budget process and (2) develop more outcome-oriented measures. However, IRS faces a number of challenges in its attempts to develop and use results oriented performance indicators to manage its programs. These include a lack of good data, methodological constraints in measuring the effectiveness of its programs, and difficulty in collecting the data needed.

PRIVATE DEBT COLLECTION PILOT

Question. In the fiscal year 1997 Treasury Appropriation bill, this subcommittee funded a private debt collection project, which was to do a pilot allowing the private sector to collect on accounts that the IRS considered uncollectible. According to your testimony, GAO's review of the ongoing debt collection pilot identified significant legal, systems and operations, and performance measurement barriers to the pilot's success. You say that additional spending should be prohibited until those problems are resolved. How much additional money do IRS and Treasury have available to spend on debt collection pilots?

Answer. IRS was directed in its fiscal year 1996 appropriation to test the use of private collection companies, and Congress earmarked $13 million for that purpose. IRS estimates that only about $4 million of the original $13 million will be obligated. With the passage of IRS' fiscal year 1997 appropriation, Congress earmarked another $13 million and directed that IRS extend the initial pilot for a second year. An additional $13 million was also earmarked in IRS' fiscal year 1997 appropriation for a second pilot—to be managed by the Department of the Treasury. None of this additional total of $26 million has been obligated.

Question. Can you comment on the success of this program? Is the program's failure due to the way it was set up? Do you have any recommendations on how to make this a successful program?

Answer. Certain design issues and operational problems affected implementation of IRS' private debt collection pilot program. The pilot's scope was limited at the outset by certain legal interpretations that restricted the types of collection activities that private contractors can do. Also, the pilot was not designed to identify successful collection techniques used by the private sector that could be adopted by IRS. In addition, operational problems occurred when IRS had to use its outdated

computer systems to identify and select cases for the contractors. At the outset, the scope of the contractors' activity was limited to locating taxpayers who IRS could not find as opposed to collecting taxes from delinquent taxpayers. The Office of Management and Budget and IRS consider the collection of taxes to be an inherently government function that must be performed by government employees. As a result, the pilot's contractors could only assist IRS in locating and contacting delinquent taxpayers to remind them of their outstanding tax liabilities and to suggest various payment options. The contractors were prohibited from actually collecting funds to settle delinquent accounts. The contractors also could not be paid on a contingency fee basis; instead they were paid according to a performance fee schedule. Although the scope of the contractors' case work was limited to locating delinquent taxpayers, IRS could have used the contractors to help identify successful private sector collection techniques that could be adopted by IRS. However, the pilot did not include any provisions for doing so. There were also operational problems with the pilot. IRS never expected that taxpayer cases would be released to private collectors, thus its data systems contain sensitive taxpayer information that is inappropriate for release outside of IRS. Therefore, IRS had to develop criteria and computer programs to screen cases prior to their transfer to the contractors. In addition, IRS' outdated computer systems and technology and the inability to transfer data from one service center to another impeded the referral of cases to the contractors.

TAX RETURN PROCESSING

Question. In IRS' fiscal year 1998 budget request there is included an increase for 195 full time equivalent employees and $11 million to process paper returns. While IRS is requesting an increase in paper returns processing employees, they are also projecting a steady increase in the number of taxpayers who file electronically. With the growing number of electronically filed returns, is there a need for an increase in the number of employees that process paper returns?

Answer. IRS' methodology for determining the number of returns processing staff needed for fiscal year 1998 seems to indicate that additional staff are needed to process tax returns despite an estimated increase in the number of electronic returns. In explaining the requested increase, IRS projected that the number of primary tax returns filed will increase from 197.9 million in 1997 to 200 million in 1998 and that 91 percent of the increase in primary tax returns (or 1.9 million returns) will be filed electronically. We believe that IRS' methodology is flawed because it does not appear to fully account for some of the benefits of electronic filing beyond the data capture stage of tax return processing. Specifically, electronic returns have fewer errors, which should reduce the need for error correction in subsequent processing stages. The data IRS used to determine its need for $11 million and 195 full-time-equivalent staff years indicated that IRS only saves about 5 staff years for every 1 million returns that are filed electronically. At least part of the smaller-than-expected savings from electronic filing can be attributed to the fact that electronic filing is not truly paperless. Taxpayers filing electronically, other than through TeleFile, must submit a paper signature document to authenticate the electronic portion of their return. And IRS returns processing staff have to keypunch data from that document. In January 1993, we reported that to significantly increase the use of electronic filing IRS would have to resolve various issues that adversely affect the appeal of electronic filing.[2] One of those issues is the requirement to submit paper documents with an electronic return. Despite the fact that electronic filing is not truly paperless, we would have expected more labor savings than IRS' analysis shows. Because up-front filters keep certain taxpayer errors that are common on paper returns from contaminating electronic returns, we would expect that the labor and related costs to process electronic returns after the data capture stage would be substantially lower than the labor and related costs associated with processing paper returns. According to IRS budget officials, IRS has an effort underway to determine the comparative cost of processing electronic and paper tax returns. They expect that study to be completed in September 1997.

TAX SYSTEMS MODERNIZATION

Question. In July 1995, GAO reported serious management and technical weaknesses with IRS' tax system modernization and made over a dozen recommendations to IRS' Commissioner to address the weaknesses. In May 1996, Treasury reported to the Congress that it recognized that IRS did not have the capability to effectively modernize its systems and was working with IRS to obtain additional contractors—

[2] "Tax Administration: Opportunities to Increase the Use of Electronic Filing" (GAO/GGD–93–40, Jan. 22, 1993).

including a "prime" contractor—to help accomplish the modernization. Following up on IRS efforts to correct the weaknesses, GAO reported in June and September 1996 that while IRS had initiated many activities to improve its modernization efforts, it had not yet fully implemented any recommendations. Consequently, in order to minimize the risk attached to continued investment in its systems' modernization, GAO suggested to Congress that it consider limiting modernization funding exclusively to cost-effective efforts that (1) support ongoing operations and maintenance; (2) correct IRS' pervasive management and technical weaknesses; (3) are small, represent low technical risk, and can be delivered quickly, and (4) involve deploying already developed and fully tested systems that have proven business value and are not premature given the lack of a completed architecture. In light of IRS actions to date to address GAO weaknesses, what remains to be done?

Answer. As we noted in our recent high-risk reports addressing Tax Systems Modernization,[3] IRS has not fully implemented any of the recommendations made in our July 1995 report.[4] Therefore, IRS needs to make concerted, sustained efforts to fully implement our recommendations and respond to the requirements outlined by Congress. These efforts include (1) limiting information system projects, both in house and contracted out, to small, low risk, near-term projects that IRS has the ability to successfully develop or acquire; (2) improving IRS' system development and acquisition capabilities; (3) finalizing the architecture and ensuring that all IRS system projects conform to it; (4) instituting disciplined investment processes to ensure that all information technology investment decisions (e.g., project selection, control, and evaluation) are based on reliable, objective, and, whenever possible, quantitative data including cost and risk adjusted return on investment; (5) reengineering IRS business processes, focusing on electronic filing, and using these improved processes to determine those information technology investments needed to support the new processes; and (6) ensuring that all future IRS information systems budgets take into account IRS' performance as specified in the Clinger-Cohen Act. These efforts will take both management commitment, follow-through, and technical discipline by IRS in partnership with the Department of the Treasury, the Office of Management and Budget, and Congress. Once these essential improvements are made, IRS should have an effective implementation strategy for achieving its business vision, the capacity to make sound investments in information technology, and the necessary technical foundation for effectively modernizing its processes and systems. However, until these essential improvements are made and adequate justifications for system investments are provided, Congress, as we suggested in June and September 1996,[5] could continue to limit modernization funding to only cost-effective efforts that (1) support ongoing operations and maintenance; (2) correct IRS' pervasive management and technical weaknesses; (3) are small, represent low technical risk, and can be delivered quickly; and (4) involve deploying already developed systems, only if these systems have been fully tested, are not premature given the lack of a completed architecture, and produce a proven, verifiable business value. As Congress gains confidence in IRS' ability to successfully develop these smaller, cheaper, quicker projects, it could consider approving larger, more complex, more expensive projects in future years.

Question. IRS has intimated that if the Congress does not fund modernization projects, IRS will be unable to collect all taxes due to the government. What would happen to the nation's tax collection system should the Congress withhold modernization funding as you suggest?

Answer. Although IRS attempts at modernization over the last 10 to 15 years have largely failed, IRS continues to collect taxes and process returns at levels it deems to be successful. This is because the operation and maintenance of existing systems is appropriated separately from the funds to modernize, i.e., to develop new systems to do IRS' business in new and better ways. Therefore, if Congress decides to withhold modernization funds (and only provides funds for current operational systems) until IRS strengthens identified management and technical weaknesses, IRS will continue to maintain and rely upon its operational systems and will continue to collect taxes and process returns as it does today. IRS' performance in collecting delinquent taxes would also remain the same. As we have reported, IRS' per-

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[3] "High-Risk Series, IRS Management" (GAO/HR–97–8, Feb. 1997) and "High-Risk Series, Information Management and Technology" (GAO/HR–97–9, Feb. 1997).

[4] "Tax Systems Modernization: Management" and "Technical Weaknesses Must Be Corrected If Modernization Is To Succeed" (GAO/AIMD–95–156, July 26, 1995).

[5] "Tax Systems Modernization: Actions Underway But Management and Technical Weaknesses Not Yet Corrected" (GAO/T–AIMD–96–165, Sept. 10, 1996) and "Tax Systems Modernization: Actions Underway But IRS Has Not Yet Corrected Management and Technical Weaknesses" (GAO/AIMD–96–106, June 7, 1996).

formance in that area has generally been poor due to inefficient processes and systems.[6] However, as evidenced by the lack of significant improvement despite the substantial amount of modernization funds appropriated over the past several years, funding, in and of itself, will not correct those inefficiencies nor improve IRS' performance.

Question. What are your views on Treasury's and IRS' strategy to increase their reliance on contractors, specifically a "prime" contractor, to manage modernization deployment and implementation. What does IRS need to do to position itself to effectively manage contractors?

Answer. Increasing the use of contractors will not automatically increase the likelihood of successful modernization because IRS does not have the disciplined acquisition processes needed to manage all of its current contractors. As a case in point, IRS' Cyberfile—a system development effort led by contractors to enable taxpayers to personally prepare and file their tax returns electronically—exhibited many undisciplined software acquisition practices as well as inadequate financial and management controls. Eventually, IRS canceled the Cyberfile project after spending over $17 million and without fielding any of the system's promised capabilities. Therefore, if IRS is to use additional contractors effectively, it will have to first strengthen and improve its ability to manage those contractors.

REQUEST FOR COMMENTS FOR MODERNIZATION/BLUEPRINT

Question. On May 15, 1997 the IRS released its Request for Comments to the IRS' Modernization Blueprint as the first step in searching for a Prime contractor for the IRS' new computer modernization effort. Many within the private sector have had a positive response to the IRS' Blueprint for Technology Modernization. What is GAO's opinion?

Answer. We are in the process of reviewing IRS' blueprint with the goal of briefing the Congress, IRS, and Treasury later this summer.

Question. IRS is responding to Congressional direction as evidenced by its Blueprint for Technology Modernization, efforts to outsource Modernization to a private sector Prime Contractor, and efforts to strengthen its project management capability through external recruiting. What level of funding should be provided to insure that the preparatory steps needed to be taken for Modernization are not delayed, jeopardized or prevented?

Answer. In order to determine an appropriate level of funding, IRS must first identify the preparatory steps and estimate their associated costs. Congress then could evaluate IRS' plans and cost estimates, and fund those efforts that are supported by a convincing business case analysis. IRS funding requests need to place priority on steps to correct persisting management and technical weaknesses.

YEAR 2000 CONVERSION

Question. You say in your testimony that the $84 million included in IRS' fiscal year 1998 budget request for the century date change effort may be insufficient. Why might that amount be insufficient and how much more might IRS need in fiscal year 1998 for this project?

Answer. The $84 million included in IRS' fiscal year 1998 budget request was a preliminary estimate of century date change costs based on September 1996 cost estimates. This figure was based on an estimate of lines of computer code for IRS' main tax processing systems. IRS' estimates were preliminary because IRS did not have a complete inventory of other information management resources, including its secondary tax processing systems. Since then, IRS has been working to develop a comprehensive Service-wide inventory of its information management resources including all application programs, systems software, and hardware that should enable it to better identify its resource requirements for the century date change effort. The $84 million figure also did not include cost estimates for the purchase of hardware and software that will be needed to make some systems century date compliant.

Since submission of the 1998 budget request to Congress, IRS' century date change project office has been working with the various IRS organizations that have responsibility for carrying out century date conversion tasks to identify more precise cost estimates. As of June 6, 1997, the century date change project office had revised its fiscal year 1998 cost estimate from $84 million to $119 million. This estimate is still incomplete because there are potentially significant costs in other areas for which IRS has yet to complete assessments including (1) secondary tax processing systems that are also critical to the tax administration process, (2) telecommuni-

[6] "High-Risk Series, IRS Management" (GAO/HR–97–8, February 1997).

cations, (3) commercial off-the-shelf software, (4) increased computer capacity to handle expanded files, (5) replacement costs for systems that cannot be made century date compliant, and (6) non-information technology resources (e.g., elevators and heating and air conditioning units). IRS has efforts underway to address each of these areas. For example, IRS recently formed a committee of executives to address options for dealing with secondary systems. By the end of July, this committee expects to have made decisions on which of these systems will or will not be converted. IRS officials said that they expect to have a complete cost estimate for converting these systems by September 1997.

TELEPHONE ASSISTANCE

Question. During each filing season, GAO has consistently pointed out IRS' low levels of telephone accessibility. For the 1997 filing season, IRS added more staff to answer the telephone, including staff detailed from IRS' enforcement functions. What are your views on IRS' recent decision to add more staff to answer the telephone?

Answer. According to IRS data, telephone accessibility increased from 20.1 percent during the 1996 filing season to 50.9 percent during the 1997 filing season. A major contributor to that increase was IRS' decision to add more staff, including enforcement staff, to answer the telephone. Although we recognize that there are costs associated with detailing enforcement staff to answer the telephone, we believe that IRS' decision was appropriate. Taxpayers who have questions about their account or about the tax law must be able to reach IRS by telephone. Although accessibility improved significantly in 1997, it is still far from acceptable. In trying to further improve accessibility, it is important that IRS look for solutions beyond merely adding more staff to answer the phones—solutions, for example, that negate the need for taxpayers to call IRS in the first place. That would require such things as simplifying forms and instructions, making the notices it sends taxpayers easier to read and understand, and continuing efforts to expand and market other sources of information (such as the IRS Web site on the Internet). The tradeoff between customer service and enforcement that IRS faced in 1997 is indicative of the kinds of tradeoffs that are likely to continue for the foreseeable future as IRS deals with competing demands. As we mentioned in our testimony, Congress has put in place a statutory framework, including the Government Performance and Results Act, for addressing these challenges and helping Congress and the executive branch make the difficult tradeoffs that the current budget environment demands.

ELECTRONIC FILING

Question. Although there was an increase in electronic filing, including filing by telephone, in 1997, only about 17 percent of all individual income tax returns are filed electronically. In GAO's opinion, what are some of the major barriers to greater use of electronic filing?

Answer. Our answer differs, in some respects, depending on whether we are talking about regular electronic filing (which we refer to hereafter as "electronic filing") or telephone filing (which we refer to hereafter as "TeleFile"). For electronic filing, the most significant barrier, in our opinion, is cost. To file electronically, a person, even one who has prepared his or her return on a computer, must go through a third party and pay a fee. Thus, it is not surprising, in our opinion, that electronic filing has historically appealed most to persons who are due refunds and who want the money quickly. For those taxpayers who prepare their returns on computers but are unwilling to pay to transmit the returns electronically, the result is especially inefficient and counterproductive. The taxpayer prepares the return on a computer and then converts it to paper for mailing to IRS, which then employs a labor intensive, error prone process to input that information back into a computer. As discussed in response to an earlier question, one contributor to the cost of electronic filing, both to IRS and the taxpayer, is the fact that electronic filing is not truly paperless. IRS' ability to overcome barriers, like cost, and thus increase the use of electronic filing is impaired by the absence of comprehensive data on the comparative costs associated with electronic returns versus paper returns and the lack of a business strategy. With respect to the latter, we recommended in October 1995 that IRS identify those groups of taxpayers who offer the greatest opportunity to reduce IRS' paper processing workload and operating costs if they were to file electronically and develop strategies that focus IRS' resources on eliminating or alleviating impediments that inhibit those groups from participating in the program, in-

cluding the impediment posed by the program's cost.[7] IRS has yet to implement that recommendation. Cost should not be a barrier with respect to TeleFile. It does not cost the taxpayer anything to use TeleFile and, unlike electronic filing, TeleFile is truly paperless. However, the fact that only about 20 percent of those persons who IRS thought would be eligible to use TeleFile actually used it would seem to indicate that barriers exist. Neither we nor IRS knows what those barriers are because IRS had not adequately surveyed nonusers. As we reported in December 1996, past IRS surveys of nonusers showed that many eligible users did not use TeleFile because they preferred paper, but the surveys did not probe into the reasons for that preference.[8] Accordingly, we recommended that IRS (1) conduct, during the 1997 filing season, a survey of TeleFile nonusers that includes more specific information on why they prefer to file on paper and (2) take steps to address any identified barriers to increased user participation. It is our understanding that IRS has conducted such a survey, but the results are not yet available.

AUDITS/INVESTIGATIONS

Question. Would you please provide the Subcommittee with a detailed outline of the number of audit's the IG's office has conducted since 1992.

Answer.

Total number of OIG audit reports issued since fiscal year 1992

Fiscal year	*Reports*
1992	67
1993	143
1994	156
1995 [1]	141
1996	111
1997 [2]	67
Total	685

[1] The OIG began devoting significant audit resources to financial statement audit work beginning in fiscal year 1995. Please note, the workload statistic for Number of Other Audit Reports Issued, shown in our fiscal year 1998 Submission, was inaccurately reported at 128. The correct figure is 130, with 11 Financial Statement Audit Reports Issued.

[2] The figure reported is through March.

Question. Of these audits, how many were conducted bye the IG's office? How many were don by the private contractors?

Answer.

Total number of OIG audit reports conducted by the OIG

Fiscal year	*Reports*
1992	67
1993	59
1994	75
1995 [1]	51
1996	46
1997 [2]	30
Total	328

[1] The OIG began devoting significant audit resources to financial statement audit work beginning in fiscal year 1995.

[2] The figure reported is through March.

Total number of OIG audit reports conducted by Defense contracting audit agency

Fiscal year	*Reports*
1992	.....
1993	68
1994	81
1995 [1]	80
1996	61

[7] "Tax Administration: Electronic Filing Falling Short of Expectations" (GAO/GGD–96–12, Oct. 31, 1995).

[8] "IRS' 1996 Tax Filing Season: Performance Goals Generally Met; Efforts to Modernize Had Mixed Results" (GAO/GGD–97–25, Dec. 18, 1996).

Total number of OIG audit reports conducted by Defense contracting audit agency—Continued

Fiscal year	*Reports*
1997 [2]	37
Total	327

[1] The figure reported is through March.

Total number of OIG audit reports conducted by other private contractors

Fiscal year	*Reports*
1992	.....
1993	16
1994	.....
1995	10
1996	4
1997 [1]	.....
Total	30

[1] The figure reported is through March.

Question. Please provide the Subcommittee with a list of those audits over the last five years which were a part of the IG's annual audit plan and a detailed accounting of which audits were completed and the status of those which are not currently completed.

Answer.

STATUS OF OIG AUDITS OVER THE LAST 5 FISCAL YEARS

	Fiscal years—					Total
	1993	1994	1995	1996	1997	
Issued	68	50	38	17	9	182
Canceled	38	37	30	12	1	118
Rolled over [1]	23	19	8	14	.....	64
To be started	.....	.....	.....	.....	19	19
In process	.....	.....	.....	.....	25	25
CFO related [2]	2	10	11	2	.....	25

[1] "Rolled over" indicates that audits were planned for one year and remained as planned for the following year.
[2] "CFO related" indicates audits that were planned but were delayed and later included in broader based CFO (financial statement related) audits.

It should also be noted that some of the OIG planned audits were consolidated and combined, which resulted in fewer reports than planned. Further, the OIG's program audit resources were significantly reduced in fiscal year 1995 to accomplish our responsibilities under the CFO Act. This resulted in fewer audits being undertaken because of the resources needed for financial statement audit work.

Question. When carrying out an investigation, how long after the investigation begins is a contractor notified of the investigation?

Answer. For clarification, many of our investigations do not involve contractors. For those that do, however, there is no requirement that a contractor be notified at any time that they are, or were, the subject of an OIG investigation. Generally, whether subjects of an OIG investigation are contractors or Treasury employees they will not be advised of their status as subjects until such time as they are interviewed by the OIG. At the time of an interview, the interviewing special agent will advise interviewees that they are either a witness or a subject. To ensure the integrity of the investigative process and to avoid compromising an investigation by premature notification, it is often not appropriate to advise subjects, including contractors, of the status until the need for an interview or the production of applicable documentation arises.

Unlike an audit, where typically a contractor would be afforded an entrance briefing at the outset of the audit, investigations are conducted as discreetly as possible and only those individuals necessary to satisfactorily resolve the allegations are contacted. Allegations can sometimes be resolved by reviewing records or making limited contacts with third party witnesses. If, as sometimes happens, the investigative steps taken determine that an allegation is unfounded, there may be no need to con-

tact the subject. In that case, a subject may never know that allegations were received and investigated.

Question. In carrying out an investigation does Treasury IG personnel provide those being investigated with a list of materials to be produced and written questions to be answered?

Answer. In carrying oust its investigations the OIG Office of Investigations, generally does not provide those being investigated with written questions to be answered. This is a standard law enforcement practice and not one that is unique within the Treasury OIG. Whether a list of materials to be produced is given to an interviewee depends entirely on whether an individual has access to necessary and relevant information, whether that person is the most appropriate provider of that material, and the degree of cooperation by the interviewee with the investigation.

During an interview, documents may be requested if they are deemed to be relevant in resolving the allegations. Alternatively, there may be occasions when documents are needed in advance of an interview or are not otherwise voluntarily produced. An IG subpoena is another available mechanism for obtaining pertinent documents from a contractor or and individual subject.

Question. Is it true that the Defense Contract Audit Administration regulations require a referral for investigation whenever a DCAA auditor finds evidence of wrongdoing during an audit?

Answer. It is our understanding that DCAA's "Contract Audit Manual" requires DCAA Auditors to refer such indications for investigation. The GAO 1994 Revision to the "Government Auditing Standards," Chapter 7.3 and 6.28–6.33 requires similar action.

Question. Upon initiation of an investigation does the IG launch a formal investigations of wrongdoing based on specific allegations and is that discussed with those being investigate?

Answer. TO OIG opens investigations based on specific allegations or indications of wrongdoing. It is our normal practice to discuss the specific allegations under investigation with to subject at the initial interview.

GENERAL QUESTIONS

Question. Is your base fully funded?

Answer. Yes, the OIG base is fully funded for 305 FTE. However, the OIG has had to absorb the costs for pay raises and maintaining current levels over the past several years and this has not allowed the OIG to hire to its full FTE ceiling of 313 FTE.

Question. How many positions (FTE) are unfilled?

Answer. Currently, the OIG has 36 positions unfilled, of which 27, or 75 percent, have recruit actions/vacancies pending, and 9 which are in process. The OIG anticipates all positions to be filled by September 30, 1997.

This unusually high number of vacancies can be attributed to retirements and the attrition due to recruiting efforts of other OIG's, such as Social Security and Health and Human Services. In particular, 6 high graded staff were recently hired by the newly established U.S. Postal Service Office of Inspector General. As the Treasury OIG is makings inroads to reduce its high grade staffing, personnel who are at the top of their grade levels are moving to other agencies to obtain promotions.

Additionally, the OIG has requested 8 FTE with the necessary funding, to reach the FTE ceiling of 313, in support of the OIG's mission.

Question. What would it take to fill those positions?

Answer. The OIG is taking adequate steps to ensure that these unfilled positions are filled. As well, the OIG is using the past two years as a lesson on staffing within the organization. The OIG is recruiting lower level employees who will have a few years to reach the top of their career lacicler—from the current 27 recruit actions/vacancies pending, 16, or approximately 60 percent, are grades 9 or lower.

However, for the OIG to fill to the FTE ceiling of 313, the OIG requires an additional $614,000 to be able to support the 8 FTE that are not currently funded.

Question. Is the amount requested to maintain current levels accurate? What will all of this funding be applied to?

Answer. Yes, the amount of $787,000 requested to maintain current levels is accurate. OMB's economic assumptions were used to calculate this requested level of funding. This funding will be applied to our yearly inflationary increases in rent, communications, printing, supplies, and equipment.

Question. Are there any new initiatives outlined in the fiscal year 1998's budget request, if so, what are they?

Answer. There is one program change outlined in the OIG's fiscal year 1998 budget request. The OIG is requesting a workload adjustment of $614,000 and 8 FTE

to be able to further support program audit functions that review all facets of an agency's operations. Currently, the OIG is taking a proactive approach with the Treasury bureaus to address major financial management and internal control vulnerabilities that inhibit reliable operational and financial information. The OIG will be able to further work with bureaus to develop corrective action plans that address implementation. As well, the OIG will be able to further assist management in identifying corrective actions which must be taken within the existing framework versus the actions that cannot be implemented without major systems overhaul. The OIG also needs additional information technology support for the financial statement audit work to ascertain that the bureaus' automated systems are adequate to provide reliable financial data to assist the auditors in rendering an opinion.

Question. What is the turnover rate in the IG's office and how does it compare to other IG offices? What percentage of the turnover is women or minorities?

Answer. The turnover rate for the Department of the Treasury OIG in fiscal year 1996 was 9 percent and for fiscal year 1997, to date, was 9.4 percent. As the OIG has been reducing the number of high grade positions, there have been fewer promotion opportunities, which the OIG believes has resulted in an increased turnover rate.

We contacted several other OIG offices and the turnover rates seem to vary by fiscal years and Departments. For fiscal year 1996, the of Transportation OIG had a 7.1 percent turnover rate and for fiscal year 1997, to date, a .25 percent rate. The Department of Commerce OIG had a 15.4 percent turnover for fiscal year 1997, to date, and could not readily provide information about fiscal year 1996.

Of the Treasury OIG's turnover rate in fiscal year 1996, 52 percent were women or minorities, and for fiscal year 1997, to date, 62 percent were women or minorities. As a reference, in 1996 and fiscal year 1997, to date, women and minorities made up approximately 58 percent of the total OIG work force.

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF ADMINISTRATION

PREPARED STATEMENT OF ADA L. POSEY, ACTING DIRECTOR

I am pleased to present the fiscal year 1998 budget request for the following nine Executive Office of the President (EOP) accounts: Compensation of the President, the White House Office, Special Assistance to the President, the Official Residence of the Vice President, the Office of Administration, the Office of Policy Development, the National Security Council, the Council of Economic Advisers, and Unanticipated Needs.

The EOP is committed to the President's and Congress' goal of balancing the federal budget. The total for these nine budgets, excluding a Congressionally mandated transfer that has no net effect on the federal budget, is $89 million, an increase of only 4.2 percent over enacted levels in fiscal year 1993 when this Administration took office. Operating within these austere budgets has been challenging. During the past four years, the EOP has met this challenge by identifying cost saving measures, shifting resources, and deferring or delaying purchases. Inflationary cost increases and mandated pay raises for the EOP's many General Schedule employees have been absorbed. Agencies whose staffs are mostly or entirely in administratively determined positions, such as the White House, Vice President's Office, and Office of Policy Development, have held salary levels nearly static, delayed hiring decisions, and brought in new hires at lower levels. The most detrimental aspect of the budget restrictions has been the inability to adequately maintain a strong information technology infrastructure within the EOP.

There are only two significant components contained in these budgets requiring additional funding over the current services levels requested for these EOP agencies. The first involves a Congressionally mandated transfer of funding from the White House Communications Agency, a Department of Defense component, to the White House Office. The second is a comprehensive plan to renew and strengthen the EOP's information management infrastructure.

The White House Office fiscal year 1998 budget request includes a $9.8 million transfer to fund non-telecommunications support services, historically provided by the White House Communications Agency. This planned transfer is a result of a Department of Defense Inspector General audit that concluded that several support services provided to the White House Office since the 1930's went beyond the required telecommunications support. The audit concluded that these services, including audio-visual support, news wire, photographic and stenographic services should

be funded by the White House Office. The funding transfer was mandated by the Fiscal Year 1997 National Defense Authorization Act. The Department of Defense budget has been reduced $9.8 million to reflect the transfer; thus, there is no net increase to the federal budget as a result of this transfer.

The second component of this budget request that merits special note is the EOP's Capital Investment Plan, funding for which is requested by the Office of Administration (OA). The Capital Investment Plan, or CIP, is a strategy designed to provide the EOP with the technology and services needed to develop and strengthen the EOP's information systems infrastructure.

As promised in the testimony of OA Director Frank Reeder, the OA delivered a Five Year Information Technology Plan before the end of fiscal year 1996 to the House and Senate Subcommittees. It was the first of its kind for the OA. After discussions with the House Subcommittee, they indicated that the plan did not meet their requirements. As a result, the OA reevaluated the entire planning process.

Concurrent with these discussions, the fiscal year 1997 appropriations language contained the provision that funds may not be obligated for computer modernization until OA had submitted, and the Committees on Appropriations have approved, a Five Year Plan. This restricted or fenced off information technology funding for six EOP agencies.

The OA's reevaluation caused us to conclude that we were still not in a position to prepare the kind of plan requested by House Subcommittee staff. Yet, the OA was still committed to providing the Subcommittee with a blueprint schedule and prioritization list for EOP computer modernization efforts. In response to Subcommittee staff, Director Posey submitted a Capital Investment Plan (CIP) that included Office of Management and Budget (OMB) information technology guidelines. Our response also indicated the great need for unfencing the funds essential to the operations of the EOP. The Capital Investment Plan (CIP) requests $2 million in a no-year account to address immediate critical needs and to fund an Architecture Plan. This Architecture Plan would serve as the foundation for future EOP recommendations in information technology.

The cornerstone of the plan is the establishment of an EOP information systems architecture. In response to Congressional direction, the OA has enlisted an outside contractor to develop an information technology architecture (ITA) or an "architectural blueprint" in fiscal year 1997. Upon receiving notification from House Subcommittee Chairman Kolbe, in a letter detailing conditions for release of the entirety of fiscal year 1997 fenced EOP technology funds, work began immediately to develop a statement of work to define the requirements for the development of the architectural blueprint. After careful review, an outside contractor was selected to develop the architectural blueprint. This contractor had developed ITA's for other government agencies and has an outstanding reputation. As a result, the contractor agreed to complete the project by July 15, 1997. The contract to develop the blueprint by this highly reputable firm is continuing expeditiously and is on schedule. In response to this notice, six months into the fiscal year, OA has diligently pursued the direction of the Subcommittee under extreme time constraints requiring the agency to expend an additional $77,000 over the estimated $250,000 cost of the blueprint development for a revised total of $327,000 to complete the blueprint before the end of the fiscal year to allow the unfencing of the remaining funds for urgently needed fiscal year 1997 purchases and upgrades. Moreover, in order to fund the increased expense of this contractual activity, OA has economized by delaying the filling of agency vacancies.

In addition to funding the systems' architecture, the CIP would provide computer network upgrades. The EOP staff relies heavily on electronic communications, both within and beyond the EOP complex. OA provides electronic communications support to the EOP in a most challenging and dynamic technical environment. As an example, during the last four years, the EOP has experienced a five-fold increase in electronic mail traffic, coupled with more stringent records management requirements. The implementation of the White House home page and the resulting increased public access to government has introduced an ever increasing level of Internet traffic, along with the concomitant hacker and illegal access security concerns. The seemingly daily influx of new technology is increasing the OA's burden to provide constant vigilance and understanding of the technology in order to maintain the integrity of secure access. The current EOP network increasingly is experiencing performance problems and failures. The CIP would provide replacement network equipment to handle increased traffic and eliminate bottlenecks.

The CIP also mandates the acquisition and installation of a new financial management system. Like other federal agencies and many businesses, the EOP's current financial management system is not year 2000 compliant. It is critical that the EOP acquire and implement a financial system in fiscal year 1998 to have ample

time for data migration, verification, and testing before the beginning of fiscal year 2000.

The final element of the CIP is equipment replacement. The OA infrastructure supports more than two thousand desktop systems and associated printers, file servers, mainframe systems, and data storage devices. Many of these support systems are approaching or have exceeded their recommended useful lifetime. New equipment is crucial to stopping the trend of aging without replacement, and to prevent adverse impact on EOP staff productivity.

Despite limited resources, this administration has made impressive gains over the last four years, particularly in the area of public access to White House information. The public's tremendous response to the White House home page was reported last year. Since that time, the home page's popularity has not waned; it has been accessed 33 million times since its development in October 1994. Electronic mail messages continue to be a favorite form of communication by the public with the White House. The President, Vice President, and First Lady received 842,000 e-mail messages in fiscal year 1996, more than double those received in fiscal year 1995.

As the Committee is aware, the President in 1993 reduced the size of the EOP by 25 percent (effective October 1, 1993). The baseline for that cut was the actual number of "bodies on board" in the Bush Administration. The staffing figures were accurate and complete. The number included not only EOP employees, but also detailees, assignees, Presidential Management Interns, and all other categories of Other Government Employees (OGE's) that were tracked by the Bush Administration. That 25 percent reduced level was maintained for four years.

Today, the Executive Office faces new needs, particularly the staff requested by General McCaffrey to implement the President's aggressive drug control strategy to which the Congress agreed last year in the Omnibus Appropriations Bill. It will also be necessary to add staff to the Counsel's Office to respond to requests for information from Congressional and other bodies. Thus, it is no longer possible to maintain the 1993 staffing level. However, this Administration is committed to maintaining reduced staffing levels in accordance with the 12 percent reduction mandated throughout the Federal government by the Administration's reinvention initiatives. The EOP's fiscal year 1998 target of 1,185 staff—employees and OGE's—actually represents a reduction of 15 percent from the Bush Administration baseline.

The following are highlights of the accomplishments of some of the Executive Office agencies:

The Vice President's Office has spearheaded a wide range of Administration initiatives, including aiding the passage of the Telecommunications Reform Act of 1996, which stimulates private investment, promotes competition in the telecommunications industry, and strengthens and improves universal service so that all Americans can have access to the benefits of the information superhighway. Vice President Gore also chaired the White House Commission on Aviation Safety and Security. Over a six-month period, the commission conducted an extensive inquiry into civil aviation safety, security and air traffic control modernization. This inquiry resulted in a comprehensive list of recommendations adopted by President Clinton, including one that aims to reduce the aviation fatal accident rate by 80 percent over the next decade. The Vice President also continues to lead the National Performance Review to make the government work better and cost less. For example, the State Department has now made passport applications available on the World Wide Web.

In 1996, the National Security Council coordinated the Administration's efforts in a broad range of initiatives to advance America's strategic priorities. These included: (1) helping build an undivided, democratic Europe by leading the historic process of NATO enlargement; (2) forging a strong, stable Asia Pacific community by reinvigorating the U.S. alliance with Japan; proposing, with South Korea, four-party peace talks on the Korean peninsula, and advancing a strategic dialogue with China; (3) expanding American opportunity and jobs by opening markets and securing an Information Technology Agreement; (4) promoting peace from Bosnia to Northern Ireland to the Middle East; and (5) fighting dangerous transnational threats—nuclear proliferation, terrorism and drugs.

The Council of Economic Advisers (CEA) continues to work with Executive Branch agencies and Congress to ensure that the economic impact of policies is taken into account during the decision making process. In fiscal year 1996, CEA provided sound economic analysis and advice during development of a range of Administration policies, including telecommunications reform, regulatory reform and reform of our country's environmental laws. CEA also worked with other agencies to produce a number of White Papers on current economic issues, such as the importance of education to economic growth.

The Office of Administration (OA) continues to improve its customer service to the other EOP agencies. The Financial Management Division improved the process of

imprest reimbursements to EOP staff by eliminating cash disbursements in favor of electronic funds transfers. In the near future, all vendor payments and employee travel voucher reimbursements will be made via electronic transfer as well. The Human Resources Management Division launched a very successful initiative in fiscal year 1996 designing and distributing individualized employee benefits booklets which contained valuable information for all EOP employees regarding the benefits provided to them and their families. During the Office of Management and Budget's budget season, OA's Information Systems and Technology staff provided hundreds of hours of computer programming time and resources to support production of the President's budget. Finally, the new Remote Delivery Site (RDS) was completed and occupied in September 1996. The new RDS is an efficient, modern storage and receiving facility for screening all incoming mail and material prior to delivery to the White House complex. OA has nearly completed the consolidation and transition of its on-site office supply operations to the EOP's RDS. While saving rent expenses by physically relocating this critical support operation to the RDS, OA employed quality reengineering techniques to develop a catalog method of providing office supplies to its EOP customers. Office supplies are now delivered by the end of the business day upon receipt of a fax or e-mail order from EOP customers.

It is imperative that the federal government stay the course toward a balanced budget. The EOP has contributed to this effort, consistently presenting budget requests during the last four years that have grown at much less than the rate of inflation.

The EOP will continue to maximize its resources and implement cost saving measures. Yet, it is also imperative that the EOP be adequately funded to provide the quality of support deserved by our Chief Executive. It is crucial that the EOP maintain the existing infrastructure, and plan for future investments in personnel and information technology, now and into the 21st century.

QUESTIONS SUBMITTED BY SENATOR CAMPBELL

REPAIR AND RESTORATION

Question. Does this $200,000 cover the entire cost of the repairs and restoration of the White House in fiscal year 1998 and how are those costs above the $200,000 covered?

Answer. The $200,000 requested is for the renovation of the existing electrical transformer vault, currently being replaced after nearly 48 years. The current vault would be converted, after the old outdated equipment is removed and operation of the new transformer equipment is assured, into an enhanced laundry/storage facility to improve the efficiency of operation.

The Executive Residence Direct Program (Operating Funds) would continue to fund repairs and restoration of the Executive Residence and its Fine Arts Collection. There has been no increase in funding for this activity. In fiscal year 1990, the Congress funded, within the Direct Program, a curatorial conservation project.

Question. Does the White House Historical Society cover some of the costs to the repairs and restoration and what is their role within restoration efforts?

Answer. The White House Historical Association is a not for profit educational association that provides some funds through the sales of books on the history of the White House for some restoration work for those areas open to the public. Occasionally, the Association also provides funding for the purchase of items with an historical relationship to the White House or the Presidency.

The White House Historical Association has no official role in any restoration efforts but is currently in the process of raising a 25 million dollar endowment, the proceeds of which will be dedicated for the redecoration of the "principle public rooms of the White House."

Question. Please explain to the Subcommittee why in fiscal year 1997 there was not any funds enacted for repair and restoration and as a result of no funds enacted, are any restoration efforts occurring in fiscal year 1997?

Answer. A separate account was established in fiscal year 1996 to program and track expenditures for capital improvement projects at the Executive Residence at the White House.

In fiscal year 1996 funds were appropriated in the amount of 2.2 million dollars for the replacement of the Executive Residence roof. No capital improvement funds were requested in fiscal year 1997 given the number of ongoing projects, and our ability to manage projects effectively.

The Executive Residence Direct Program (Operating Funds) for fiscal year 1997 and fiscal year 1998 will continue to fund expenditures for normal repair and restoration of the White House and its Fine Arts Collection.

Question. What is the impact of not providing the funds in fiscal year 1997?

Answer. The severely needed storage space that could be made available in the old electrical vault would not be available. The existing vault would deteriorate and cost additional money to renovate in the future, and off-site storage space would continue to be used. The existing outdated laundry facility would deteriorate, posing health and safety issues and require added funding to update and correct deficiencies within the next few years.

OFFICE OF ADMINISTRATION

Question. The Office of Administration is requesting a significant $2.783 million increase from fiscal year 1997, of which $2 million will be used for Capital Investment, please explain how those funds will be used.

Answer. Frank Reeder, the former Director of the Office of Administration, began the review of the progress and direction of OA information technology infrastructure planning in 1995. With over 35 years of management and information technology experience, Director Reeder provided the OA with the opportunity to conduct a detailed review of its five year plan methodology. At the direction of Mr. Reeder, the OA established the Information Technology Advisory Board (ITAB). The ITAB was organized with one or more representatives from each of the EOP agencies. The ITAB's mission was to perform the following functions: (1) identify functional requirements for information systems throughout the EOP; (2) ensure that adequate integrated computer systems are in place throughout the EOP to meet ongoing and future workload requirements; (3) ensure appropriate exchange of information technology among EOP agencies so that experiences and lessons learned are shared; and (4) review and recommend funding for information technology initiatives that are common to all EOP agencies.

As promised to the House Treasury, Postal Service, and General Government Appropriations Subcommittee in the testimony of Director Reeder, the OA delivered a Five Year Information Technology Plan before the end of fiscal year 1996. The plan was provided to House and Senate Subcommittees. The first of its kind for the OA. After extensive direction from the House Subcommittee the OA reevaluated the entire planning process. A response letter was drafted, to include Office of Management and Budget (OMB) information technology guidelines, as well as incorporate a Capital Investment Plan (CIP). This reevaluation caused us to conclude that the OA was still not in a position to prepare the kind of plan requested by House Subcommittee staff. Yet, the OA was still committed to providing the Subcommittee with a blueprint schedule and prioritization list for EOP computer modernization efforts. In response to Subcommittee staff's request, Director Posey submitted the promised response. It provided a detailed presentation of the CIP, as well as indicating the great need for unfencing the funds essential to the operations of the EOP. The Capital Investment Plan (CIP) requests $2 million in a no-year account to address immediate critical needs and to fund an Architecture Plan. This Architecture Plan will serve as the foundation for future EOP recommendations in information technology:

Information Systems Architecture Plan—$250,000.—Establishment of an Architecture Plan is the cornerstone of the CIP. A robust information systems architecture is crucial for supporting the EOP. The Architecture Plan will allow OA information technology to achieve greater parity with the current operation and future modifications to the EOP information systems, in accordance with recognized industry and government guidelines regarding the development, implementation, operation, and enhancement of information technology integration.

Computer Network Upgrades—$650,000.—The ability to provide the EOP with electronic connectivity is a requirement for efficient EOP-wide operations. The primary medium supporting this connectivity is the EOP Local Area Network (LAN), and connections to the Internet, which uses more than 60 servers. Electronic mail has grown by more than a factor of five, to nearly 50,000 messages a week, while investment in infrastructure has not kept pace with this explosive growth. The LAN is experiencing significant performance problems. Frequent LAN failures are resulting in unreliable electronic communications services, which adversely affect staff productivity. In order to maintain current services levels and to contain impact on staff productivity, it is necessary to replace network equipment and servers in fiscal year 1998.

Financial Management System—$600,000.—The EOP's current Financial Management System is neither year 2000 compliant nor integrated with other financial sys-

tems such as procurement and travel systems, and restricts individual on-line access to authorized levels of financial information. To ensure the continuity of operations and to correct the year 2000 problem, it is critical to begin the Financial Management System activity even as the Architecture Plan activity is underway. This activity is time sensitive. It is an immediate and critical need within OA.

Equipment Replacement—$500,000.—The OA's efficient infrastructure support operations require adequate automated data processing capability. This capability consists primarily of OA desktop systems, mainframe and distributed computer systems, and the supporting systems providing such capabilities as computer files storage, and data retrieval and manipulation. More than 2,000 desktop systems and associated printers, file servers, applications servers, mainframe systems, distributed systems, and data storage devices are in place. Many of these OA support systems are approaching, or have exceeded, their recommended useful lifetime. In order to maintain current productivity levels, it is necessary to replace such equipment in fiscal year 1998 or continue the trend of aging without replacement.

Question. The remaining is for a 3 percent increase in BA for fiscal year 1998, other than the 2.8 percent pay increase, what will the 3 percent increase be used for?

Answer. In addition to the personnel compensation and benefits increase, the major portion of OA's remaining increase will be used to meet the information technology needs for contractor support, desktop and PC equipment, desktop and networking supplies, and Internet and firewall equipment upgrades. OA's current information technology facility management contract is due to expire at the end of fiscal year 1997.

A total of $645,000 is budgeted to support contractor transition expenses and other contract increases. OA expects to use an existing government Indefinite Delivery Indefinite Quantity contract vehicle that will be performance based and will reduce costs. Increases of $415,000 for desktop and PC equipment and of $169,000 for desktop and networking supplies will begin to provide much needed upgrades and replacements throughout OA. These funds are necessary to maintain the vast infrastructure within the EOP and to upgrade computers in OA with NT Desktop environment. Furthermore, OA will require a $48,000 increase in equipment to maintain Internet access as well as to maintain firewall security standards for the EOP information systems. OA is also requesting $97,000 to restore significantly diminished funding for the EOP libraries. These funds, for library periodicals, microfilms and books, are essential in preventing gaps in the library collections.

While OA has adequately provided services with constrained resources, the organization has remained committed to reducing expenditures where possible. OA has identified one-time reductions along with other savings: completion of NT Desktop development, $258,000; reductions in hardware and software maintenance expenses, $228,000; networking equipment decreases, $160,000; adjustments in commercial on-line systems for wire service, $123,000; small reduction in office space, $44,000; and additional net savings in other areas, $34,000.

The 3 percent increase will help OA maintain the existing infrastructure supporting the President and the EOP. Although this current service level request does not fully meet OA's needs, it demonstrates OA's ability to find savings within limited resources and make necessary but limited technology upgrades.

Question. Can you outline for the Subcommittee what the [$743,000] $734,000 will be spent on in the "other services" object class?

Answer. The fiscal year 1998 increase for OA's "Other Services" object class is outlined below:

Facility Contractor Support	$645,000
NT Development	(258,000)
Hardware and Software Maintenance, net	(228,000)
Commercial Online Services, net	(89,000)
Miscellaneous Increases and Decreases, net	64,000
Capital Investment Plan	600,000
Total	734,000

Question. Please outline for the Subcommittee what equipment the Office of Administration will purchase with the $1.749 million requested in fiscal year 1998?

Answer. The fiscal year 1998 increase for OA's "Equipment" object class is outlined below:

ADP Hardware and Software—Desktop	$380,000
Firewall and Internet Equipment	48,000
ADP Hardware and Software—PC Maintenance	34,000

Publishing Hardware	17,000
Miscellaneous Equipment, net	17,000
Library Books—permanent collection	13,000
Networking Servers	(160,000)
Capital Investment Plan	1,400,000
Total	1,749,000

Question. Is the Office of Administration purchasing this equipment on an established modernization plan, if so please provide a detail outlining this plan to the Subcommittee.

Answer. As promised to the House Treasury, Postal Service, and General Government Appropriations Subcommittee in the testimony of Director Reeder, the OA delivered a Five Year Information Technology Plan before the end of fiscal year 1996. The plan was provided to House and Senate Subcommittees. The first of its kind for the OA. The Plan set forth a vision and framework that would guide the EOP's information technology investments for the next five years. To that end, the plan described an overall strategy and priority setting system for activities but did not require or request specific investments in the future. The initiatives outlined in the plan identified the functional requirements for information systems throughout the EOP and ensured that adequate integrated computer systems would be in place throughout the EOP to meet ongoing and future workload requirements.

Ensuing discussions with Subcommittee staff, resulted in agreement that OA needed to prepare a comprehensive systems architecture and investment plan. The $2 million requested comprises four components designed to improve information and financial management services throughout the EOP. An Architecture Plan is bring funded in fiscal year 1997 and will serve as the foundation for future EOP recommendations in information technology.

The equipment requested is critical in sustaining current EOP information systems operations until the Architecture Plan is completed. These expenditures cannot wait until the Architecture Plan is completed in fiscal year 1997. To maintain current productivity, it is necessary for the EOP to replace existing equipment that is approaching, or has exceeded, its recommended useful lifetime. In conformity with the CIP, the OA will make every effort to purchase components that are compatible with multiple architectures. In addition, our current fiscal year 1997 purchases are based on the same user-defined needs that underlie the Architecture Plan, providing for additional compatibility. Failure to pursue this activity in fiscal year 1998 will result in increasing network outages, increasing loss of productivity for EOP staff members, and interruptions in electronic communications to and from other government agencies and the public.

Question. If the Office of Administration is carrying out a modernization plan, does it follow the general government guidelines for technology investment?

Answer. Yes, modernization efforts by the OA anticipate adhering to the criterion included in the Office of Management and Budget's memorandum 97–02, "Funding Information Systems Investments" dated October 25, 1996 and the Clinger-Cohen Act of 1996 (Public Law 104–106) dated February 10, 1996, which facilitates the implementation of information technology architecture.

Question. Is there the necessary evaluation of this plan by an "evaluation group" and is there a systems architecture for this plan? If so, please provide a detail outline of the architecture to the Subcommittee.

Answer. Yes, there are several EOP agency-oriented user advisory groups and an Information Technology Advisory Board (ITAB), both of which fit within the concept of an "evaluation group." The agency-oriented advisory groups concentrate on individual agency technical and business needs.

The ITAB was organized with one or more representatives from each of the EOP agencies. The ITAB's mission was to perform the following functions: (1) identify functional requirements for information systems throughout the EOP; (2) ensure that adequate integrated computer systems are in place throughout the EOP to meet ongoing and future workload requirements; (3) ensure appropriate exchange of information technology among EOP agencies so that experiences and lessons learned are shared; and (4) review and recommend funding for information technology initiatives that are common to all EOP agencies. In addition, the ITAB has worked in concert with Office of Management and Budget (OMB) staff and OMB information technology guidelines to address Congressional concerns and direction. This interagency cooperation which has been rigorously reviewed by OMB staff has been found to be efficient and effective.

The ITAB has also been advised by the Information Technology Resources Board of the Chief Information Officers (CIO) Council, a government-wide advisory body, as defined in Executive Order 13011 of July 16, 1996. The CIO Council has been

established as the principal interagency forum to improve agency practices on such matters as the design, modernization, use, sharing, and performance of agency information resources. After careful review and consultation, an outside contractor who had developed ITA's for other government agencies and has an outstanding reputation, was selected to develop the architectural blueprint for the EOP. As a result, the contractor agreed to complete the project by July 15, 1997. The contract to develop the blueprint by this highly reputable firm is continuing expeditiously and is on schedule.

UNANTICIPATED NEEDS

The Congress provides the President with funds for unanticipated needs.

Question. Have any funds from this account been used in this fiscal year? Please provide the Subcommittee with a breakout of these expenditures.

Answer. There is no fiscal year 1997 appropriation for Unanticipated Needs. The $1 million requested was diverted by Congress to fund conferences on model state drug laws through the Office of National Drug Control Policy. In order to give the President the flexibility that historically has been given to other Presidents to respond to unplanned exigencies, we have requested restoration of this account in fiscal year 1998 in the amount of $1 million.

Question. The President is requesting $1 million in fiscal year 1998 for the Unanticipated Needs Account. Please provide the Subcommittee the types of activities that would necessitate the use of the Unanticipated Needs funds and the guidelines of how the Unanticipated Needs funds are to be used.

Answer. This account has been used to fund unanticipated national priorities for which funding is either not available from regular budget accounts, or is not available in a timely fashion through the supplemental appropriations process. All funds allocated to this account that are not used for unanticipated purposes have been and will continue to be returned. The last request for Unanticipated Needs funding was in fiscal year 1994 for the J.F.K. Assassination Records Review Board, $250,000. Other initiatives which required funding from the Unanticipated Needs account include: start up costs for the National Space Council, $181,000 in fiscal year 1989; and the President's Commission on Privatization, $110,000 in fiscal year 1988.

In order to obtain funds from the Unanticipated Needs account, the requesting agency petitions the Office of Management and Budget (OMB) with a detailed request and justification. OMB certifies that there are no funds available from other sources. Once OMB approves, the President alone authorizes expenditures from the Unanticipated Needs account. Prior use of these funds has occurred within strict budget controls and reporting standards.

GENERAL QUESTIONS

There is funding outlined in the budget request which indicates that the base is fully funded within all of the Executive Office of the President agencies. Please provide detailed responses for each of the following agencies: Council of Economic Advisors, Office of Policy Development, Special Assistance to the [Vice] President, Office of Administration, White House Office, and National Security Council.

Question. Is your base fully funded?

Answer. Please see response to question No. 18.

Question. How many positions (FTE) are unfilled?

Answer. Please see response to question No. 18.

Question. What would it take to fill those positions?

Answer. Please see response to question No. 18.

Question. Is the amount requested to maintain current levels accurate? What will all of this funding be applied to?

Answer. Please see response to question No. 18.

Question. Are there any new initiatives outlined in fiscal year 1998's budget request, if so, what are they?

Answer. Detailed responses for question No.'s 14–18 for each agency are provided below.

Council of Economic Advisers (CEA)

CEA's request of $3,542,000 adequately funds the fiscal year 1998 base. In addition, it also enables CEA to fill 35 requested FTE positions. This represents a net increase of $103,000 in budget authority and no increase in FTE's over the fiscal year 1997 levels.

CEA's budget request does not include any new initiatives in fiscal year 1998. The following highlights the changes from the fiscal year 1997 budget.

The additional 3 percent increase is mainly needed to cover increases in two areas: pay adjustments and scheduled replacement of computer hardware and software. Specifically, the net increase for personnel includes the 2.8 percent government-wide pay raise effective January 1, 1998 in accordance with the Office of Management and Budget's guidance. It also includes promotions and within-grade step increases.

During the last three years, CEA diverted funds from the equipment category to offset inflationary costs and mandatory pay increases. The increase in equipment will restore these funds and establish a regular replacement program for CEA's personal computers. It will enable CEA staff to provide economic policy support to the President in the most efficient manner possible.

This request contains no additional funding for travel, transportation of things, and rental payments to GSA as the agency can operate within existing resources. Increases have been included to cover inflationary cost increases in other administrative categories such as: printing, other services and supplies.

Office of Policy Development (OPD)

OPD's request of $3,983,000 adequately funds the fiscal year 1998 base. In addition, it also enables OPD to fill 31 requested FTE positions. This request reflects a 3 percent funding increase from the fiscal year 1997 enacted level, and no increase in FTE's.

OPD's budget request does not include any new initiatives in fiscal year 1998. The following highlights the changes from the fiscal year 1997 budget.

The total requested increase of $116,000 would be used to fund increases in Personnel Compensation and Benefits, Other Services, and Supplies and Subscriptions.

The net Personnel Compensation and Benefits increase of $76,000 enables OPD to provide competitive salaries to continue to retain and attract high quality employees. In addition, it aligns Civilian Personnel Benefits with actual costs. These increases will be offset by limiting the length of detail assignments to OPD, thus decreasing the reimbursement required.

This request also includes a $35,000 increase in Other Services and a $5,000 increase for subscriptions classified under Supplies and Materials. These increases are necessary to fund use of commercial on-line services, such as Lexis-Nexis, and periodicals. Frequent access to a wide variety of printed and electronic information sources enables OPD's staff to provide up-to-the-hour research on current policy issues.

OPD plans to absorb inflationary increases in the other object classes to shift the much needed resources to the above mentioned areas.

Special assistance to the President (OVP)

OVP's request of $3,378,000 adequately funds the fiscal year 1998 base. In addition, it also enables OVP to fill 21 requested FTE positions. This is an increase of $98,000 or 3 percent in budget authority and no increase in FTE over the fiscal year 1997 enacted levels.

OVP's budget request does not include any new initiatives in fiscal year 1998. The following highlights the changes from the fiscal year 1997 budget.

The personnel compensation category, which has remained flat for two years, requires an increase of $117,000. Under the current funding level, the Vice President froze salaries, delayed filling vacancies, and had difficulty offering competitive salaries to prospective hires. This increase will be used to reverse this trend as well as provide funding for one reimbursable detailee.

The request in communications, utilities, and miscellaneous charges reflects increases in local telephone tariffs, domestic long distance, pager, and GSA after-hour utilities costs. Although some savings have been achieved, a net increase is required to cover cost growth and is consistent with fiscal year 1997 costs incurred to date.

A nominal increase in printing has been included in this request. The printing budget has remained flat for four years and requires an increase to keep pace with cost growth in printing and reproduction services.

The $13,000 increase in other services reflects the anticipated increases in maintenance costs for ADP hardware, software, copiers, faxes, and other office equipment, as well as the estimated cost of commercial services.

A reduction in supplies and materials reflects the Vice President's commitment to achieve savings through the use of technology. The savings will be achieved through the cancellation of subscriptions due to the use of Internet, on-line commercial databases, and electronic information resources.

The decrease in equipment represents the integration of personnel and other operating priorities into a funding request that ensures appropriate application of technology. The request in this category will allow for system maintenance while the

implementation of the next generation of technology is considered. It is one step in the continual process of providing and maintaining the tools required to effectively support the Vice President.

While the fiscal year 1998 budget reflects a maintenance level operation, the effective implementation of new technology will continue to be a priority in future requests. These investments have required, and will continue to require, significant resources to purchase hardware, software and programming technology.

Office of Administration (OA)

OA's request of $28,883,000 includes $2,000,000 in no-year funds for a Capital Investment Plan. The current services level of $26,883,000 represents a 3 percent or $783,000 increase over fiscal year 1997 and adequately funds the fiscal year 1998 base. In addition, it also enables OA to fill 192 requested FTE positions.

Please see responses to question numbers 5 through 11 regarding maintaining the current services level and new initiatives.

White House Office (WHO)

WHO's request of $51,199,000 adequately funds the fiscal year 1998 base. In addition, it also enables WHO to fill 400 requested FTE positions. It includes $9.8 million required by the National Defense Authorization Act for Fiscal Year 1997 to fund services historically provided by the White House Communications Agency (WHCA). Excluding this Congressional mandate, the request represents a $1,206,000 or 3 percent increase in budget authority and no increase in the FTE level from fiscal year 1997. The following highlights the changes from the fiscal year 1997 budget.

The personnel increase of $883,000 provides for the 2.8 percent cost of living and locality adjustment per OMB guidance, within-grade increases for GS equivalent employees, and promotions. The requested increase also aligns the fiscal year 1998 budget with actual costs for detailees.

The request in civilian personnel benefits reflects increases in worker's compensation and employee benefits. A decrease of $200,000 in benefits for former personnel will provide adequate funds for costs anticipated in a non-transition year.

Other non-personnel object classes include a $110,000 increase in supplies to align the budget with actual costs. The request will more accurately reflect costs historically incurred in this category. This increase is nearly offset by a decrease of $107,000 in communications, utilities, and miscellaneous charges.

The home page is rapidly becoming the most popular way to visit the White House and the next version of the WHO home page will be developed during fiscal year 1998. This increase will enable the WHO to take advantage of changes in technology and update the home page to reflect the latest information on the WHO and the Executive Office of the President.

Under the past frozen budgets, reductions in the equipment budget have been used to absorb mandatory cost increases. The result was restricting purchases to an as needed basis only, which is only effective as a temporary solution. The majority of this increase will be used to fund a regular replacement program for desktop technology. This will ensure that the WHO staff have the appropriate tools to work effectively and avoid requests for large increases every few years to completely replace outdated technology.

Although this budget request is a 3 percent increase, the WHO continues to freeze funding in many other object classes to meet operating priorities. After freezing our requests at the fiscal year 1995 enacted level for two consecutive years, this increase is essential to continue to provide quality support to the President.

WHCA transfer

The WHCA transfer was proposed by Representative Spence and supported by Representatives Clinger and Zeliff. The proposed language was enacted under the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201, section 912, 110 Stat. 2422, 2623; codified at 10 U.S.C. section 111).

The transfer will continue to fund necessary and historically provided official non-telecommunication services that have been provided by WHCA for decades. This includes audiovisual, news wire, stenographic, and photographic services that provide the historical record of a presidency. At the end of each administration, these records are sent to the National Archives and Records Administration to become part of the official history of this country.

The WHO is working with WHCA to ensure a smooth transition. The transfer amount of $9.8 million was developed by the Office of Management and Budget (OMB) and the Department of Defense. Since the estimate is based on fiscal year 1996 actual WHCA costs, there may be unforeseen and unbudgeted costs that may require additional funds in future fiscal years. This has the potential to affect WHO

requests until there are several years of operational experience to refine estimates. This increase is offset by a matching reduction in the DOD fiscal year 1998 budget request.

National Security Council (NSC)

NSC's request of $6,648,000 adequately funds the fiscal year 1998 base. In addition, it also enables NSC to fill 60 requested FTE positions. This represents the same levels that were enacted in fiscal year 1997.

NSC's budget request does not include any new initiatives in fiscal year 1998. The following highlights the changes from the fiscal year 1997 budget.

This budget provides funds for two entities: the National Security Council (NSC), $6,051,000, and the President's Foreign Intelligence Advisory Board (PFiAB), $597,000. Unless specified otherwise, funds for both entities are listed in the aggregate in this budget submission.

Funds in the amount of $4,690,000 will cover personnel compensation and benefits, which represents a decrease of $6,000 from that of fiscal year 1997. Funding levels for NSC are primarily determined by expenditures for personnel. Of the total funds requested for fiscal year 1998, 71 percent is for this category. This request includes funding for the locality pay adjustments and the cost of living pay adjustments per guidance from the Office of Management and Budget, as well as promotions and within-grade step increases.

Also included in this personnel request is $1,285,000 for Special Personal Services Payments. This category covers the salaries and benefits of 8 reimbursable detailees assigned to NSC. NSC's portion of this request is due to the requirement in Public Law 93–126, section 11, which stipulates reimbursement to the State Department for some of its detailees. Funding originally budgeted for 3 PFiAB reimbursable detailees will be used for other NSC and PFiAB personnel costs. The request for this category of personnel represents an increase of $379,000 from fiscal year 1997 for additional detailees.

Rental payments to GSA have increased by $6,000 to a total of $1,108,000 due to the acquisition of additional storage space. No other additional office space has been acquired and space rental rates have remained constant with no increases for fiscal year 1998.

For fiscal year 1998, NSC plans to decrease funding in communications to shift much needed resources to other services and supplies. Adjustments within these categories represent a realignment to historical spending levels. Other administrative operating expense categories such as travel, printing and equipment, have not been increased over fiscal year 1997 levels.

INDEPENDENT AGENCIES

ASSASSINATION RECORDS REVIEW BOARD

PREPARED STATEMENT OF JUDGE JOHN R. TUNHEIM, CHAIRMAN

I. INTRODUCTION

Mr. Chairman and Members of the Subcommittee, I would like to thank you for the opportunity to submit a written statement on behalf of the Assassination Records Review Board regarding the Board's request for $1.6 million for fiscal year 1998, to fund one final year of operation. The Board acknowledges that all of the issues surrounding the assassination of President Kennedy will likely never be fully resolved, however, this additional time will allow us to complete our work, including the review and public release of critical FBI and CIA records, submit a comprehensive and complete final report to the Congress and the President, and make available to the American public as much information as possible on the assassination of President John F. Kennedy.

Please allow me to introduce the other members of the Review Board with whom I have had the professional honor and personal pleasure to work: Dr. Henry F. Graff, Professor Emeritus of History, Columbia University; Dr. Kermit L. Hall, Dean, College of Humanities, and Professor of History and Law, The Ohio State University; Dr. William L. Joyce, Associate University Librarian for Rare Books and Special Collections, Princeton University; and Dr. Anna K. Nelson, Distinguished Adjunct Historian in Residence, The American University. We have been honored to engage in this important effort to make the history of the Kennedy assassination available to the American public and I am pleased to submit a written statement to this Subcommittee and answer your prepared questions.

I would also like to describe briefly the professional staff that we are fortunate to have hired. The Executive Director is Dr. David G. Marwell, a professional historian who gained vast experience dealing with large numbers of important historical documents with the Office of Special Investigations at the Department of Justice and later as the Director of the Berlin Document Center. He leads a staff of 28 full-time employees, who have varied backgrounds as historians, lawyers, analysts, investigators, and administrators. The members of the staff have approached their unique task with seriousness of purpose, creativity, professionalism, and competence, and have assisted us in shedding new light on the assassination through the release of thousands of Federal Government records, and the acquisition of records in private hands and local governments that were not previously available to the American public. I believe that we assembled exactly the type of professional and diversified staff that Congress envisioned would be necessary to accomplish this difficult assignment.

II. ACCOMPLISHMENTS TO DATE

As I know you are aware, the Review Board was created by The President John F. Kennedy Assassination Records Collection Act of 1992 (JFK Act) as an independent Federal agency to oversee the identification and release of records related to the assassination of President Kennedy. The JFK Act is a unique piece of legislation designed to remove doubt and speculation about the content of government records related to the assassination of President Kennedy. As a result of these lingering suspicions, Congress determined that an independent board was the most effective and efficient vehicle to make all assassination records available to the public.

The Review Board has accomplished much since we began releasing previously secret records in June of 1995. The Board has acted to transfer more than 14,000 documents to the President John F. Kennedy Assassination Records Collection (JFK Collection) at the National Archives and Records Administration. We would not have been successful in our efforts without the significant assistance of the National Archives. The JFK Collection currently totals approximately 3.7 million pages and is used extensively by researchers from all over the United States.

By the end of fiscal year 1997, the Review Board will have reviewed and processed nearly all of the assassination records that have been identified by the more than 30 different government offices believed to be in possession of relevant records, with the important exception of the FBI and the CIA. I will elaborate on the status of records held by these two agencies later. The overwhelming majority of previously redacted information will have been made public by the Review Board.

III. RELEASE OF GOVERNMENT RECORDS RELATED TO THE ASSASSINATION

Before discussing what we will accomplish with one final year, I would like to highlight for the Members of the Subcommittee some of the important records that the Board has made public. They include:

—Thousands of CIA documents on Lee Harvey Oswald and the assassination of President Kennedy that made up the CIA's Oswald File and detail the agency's investigative activities following the assassination;

—Thousands of once-secret records from the investigation by the House Select Committee on Assassinations, chaired by Congressman Stokes, including the controversial Staff Report on Oswald's trip to Mexico City;

—Thousands of records from the FBI's core and related assassination files that document the FBI's interest in Oswald from 1959–63, after he had defected to the Soviet Union, three years before the assassination; and

—The extensive FBI files on its investigation of the assassination.

The important work in which the Review Board has been engaged can be best and most graphically demonstrated by discussing the "before" and "after" versions of one of the pre-assassination FBI documents to which I just referred and that the Board has released to the public. Prior to the Review Board's review, this FBI document (JFK Collection Record Number: 124–10023–10236, Attachment Number 1) was only available to the public in a heavily redacted form. The only information that was not secret was the date of the memorandum, "October 12, 1960," that it was to the "Director, FBI," from "Legat, Paris" (the FBI representative in Paris), that the subject was "Lee Harvey Oswald, Internal Security," and that it had to do with a "Paris letter 9/27/60." The rest of the text was blacked out. Obviously, this version of the document left room for a great deal of speculation among historians and researchers regarding what was underneath the black ink on this document with the provocative subject title.

The Review Board aggressively pursued the release of the redacted information in this document and several others that relate to the FBI's interest in Oswald be-

fore the assassination. After protracted negotiations with the FBI, an initial FBI appeal to the White House in an effort to keep the document secret, and a direct appeal to the Swiss government, we were able to release the information. The unredacted memorandum shows that the Swiss Federal Police had been enlisted by the FBI to try to locate Oswald and to determine whether or not he had enrolled at a school in Switzerland. Now the public is able to see the document in full and judge its importance. In its redacted state, the document could have meant anything that a researcher's imagination and speculation could invent. In its released form, it must be analyzed for what it says.

IV. IDENTIFICATION AND LOCATION OF ADDITIONAL ASSASSINATION RECORDS

One of the most important, most difficult, and most time-consuming responsibilities of the Review Board is to identify and locate additional records that are relevant to the assassination. This is a task that to some degree must logically come later in the process, after the Review Board has gained a full understanding of the records that have already been identified. Although the Review Board has made a significant number of requests for additional records and information, some of which I would like to outline, much remains to be done before it can be confident that it has completed this responsibility.

I would like to highlight some of our efforts to identify and locate additional assassination records. Some examples:

—*Medical Records Inquiry*.—The Review Board has several ongoing efforts to identify and locate assassination records involving medical issues. As with any homicide, the medical records are among the most important pieces of evidence. As part of its attempt to ensure that the medical records are as complete as possible, the Review Board staff has deposed the principal pathologists involved in President Kennedy's autopsy, as well as other individuals who had knowledge of the autopsy and related photographic records.

—*Identification and Location of Additional FBI Records and Information*.—The Review Board has continued its efforts to locate additional FBI assassination records by making several requests for records and information. The FBI has assisted in this effort by giving the Review Board members access to requested files. The JFK Task Force at the FBI has, on the whole, been extremely cooperative and helpful to the Board and has provided the requested information.

—*Identification and Location of Additional CIA Records and Information*.—The Review Board has initiated a number of requests to the CIA for additional information and records. The Review Board expects that these requests will be promptly and fully satisfied during the upcoming year.

—*Identification and Location of Additional Secret Service Records and Information*.—Time consuming and careful review of Secret Service activities by the Review Board produced a series of requests for additional records and information that, in turn, led to the identification of additional relevant assassination records. For example, in response to the Review Board's first eight requests for additional information, the Secret Service has submitted more than 1,500 pages of material.

—*Identification and Location of Additional Military Records and Information*.—The Department of Defense (including its many components and the military services) (collectively "DOD"), identified few assassination records on its own initiative. DOD has nevertheless been cooperative with the efforts of the Review Board to locate assassination records. When such records have been located, DOD has been willing to release the records with few redactions.

Additional work would be required in our last year to ensure that all assassination records in the military archives have been made a part of the JFK Collection. Fortunately, the diligent efforts of the ARRB staff have set the stage for accomplishing this task.

V. RELEASE OF PRIVATE AND LOCAL RECORDS

In addition to the release of records in the Federal Government's vast files, and consistent with the Board's mandate to make the historical record of the assassination as complete as possible, we have been aggressive in identifying and acquiring significant assassination-related records in the possession of private citizens and local governments, including:

—The original personal papers of Warren Commission Chief Counsel J. Lee Rankin that give further insight into the operations of the Commission;

—Copies of the official records of New Orleans District Attorney Jim Garrison's investigation of the assassination;

—The original papers of New Orleans attorney Edward Wegmann, from his work as a member of the legal team that successfully defended Clay Shaw in 1969 against a charge of conspiracy to kill President Kennedy;
—Copies of records from the Metropolitan Crime Commission of New Orleans, including records on District Attorney Garrison's investigation and prosecution of Clay Shaw and records regarding New Orleans organized crime figures;
—Long-lost films taken in Dallas on November 22, 1963, that the public had never seen and that shed new light on the events of that day; and
—Private collections of records from individuals including Warren Commission attorney Wesley Liebler, author David Lifton, FBI Special Agent Hosty, attorney Frank Ragano, as well as others.

I am also pleased that the Review Board has recently acquired the original personal papers of Clay Shaw, the late New Orleans businessman who is the only person ever tried in connection with the assassination of President Kennedy. Shaw was acquitted by a jury in 1969 after being charged as part of District Attorney Garrison's investigation. The Shaw papers will surely add another dimension to this particular chapter of the assassination story.

All of these records will enrich the historical record of the assassination for future generations of Americans. Once these records are processed and described by the National Archives, they will be available for research.

VI. THE NEED FOR ADDITIONAL TIME

Despite our best efforts and significant accomplishments, some of which I have outlined, the Review Board will not be able to complete its work within the original three-year timetable set by Congress for the following reasons:

—First, the authors of the original legislation believed that our task would take three years. That estimate was based on the best available information at the time, but the legislation established an unprecedented process. There was no way of knowing the problems of scale and complexity that the Board would encounter, nor was there any way to factor in the comprehensive approach we have taken in fulfilling our mandate.
—Second, the Board was not appointed until 18 months after the legislation was signed into law. As a result, without the guidance of the Board, Federal agencies initially defined for themselves the universe of records that should be processed under The Act and to speculate about the kind of evidence that would be needed to sustain the redaction of assassination-related information. Once the Board was in place, agencies needed to redo a considerable amount of work. In fact, many agencies have yet to complete their review and the Board is still seeking their compliance.
—Third, our enabling legislation imposed several restrictions on the manner in which the Board could operate. Unlike other temporary agencies, the Board could not hire or detail experienced federal employees, but rather had to hire new employees who had to undergo background investigations and be cleared at the Top Secret level. Locating and renovating space that was suitable for the storage of classified materials was required. As a result, the Board could not begin an effective review of records until the third quarter of our first year.

We are pleased and proud that the Review Board and staff have been able to overcome these obstacles, and that we have developed an efficient and effective process for the review of records. All involved in this process want to see that the job is done, and do not want to cease now with a reasonable conclusion in sight. We want to finish the job we began, and with one additional year we can.

VII. THE JOB AHEAD

The additional year of operations will permit the Review Board to finish its task by completing several major areas of our work. Please be assured that these are identifiable projects that are critical to ensuring that the JFK Collection is as complete as possible, that relevant Federal agencies have been held accountable, and that all that we have done is documented in our final report. The Board would focus in our final year on the following:

—*CIA Sequestered Collection*.—The Review Board has completed its review of the Oswald ''201 file,'' the file created and maintained by the CIA on Oswald and the assassination. The Review Board is now faced with the task of reviewing the agency's ''Sequestered Collection,'' the large collection of files that was assembled by the CIA in response to requests made by the House Select Committee on Assassinations, chaired by Congressman Stokes, in the late 1970's. These records find their relevance to the assassination defined in part by the course of the HSCA investigation. The Sequestered Collection originally consisted of 63

boxes of CIA- and HSCA-originated records as well as 72 reels of microfilm. Unfortunately, these records are in a confused order, poorly described, and are replete with duplicates. Some of these records are clearly of great significance, some are of only marginal interest, and the relevance of others cannot be identified.

—*FBI Sequestered Collection*.—The FBI divides its assassination records into two general categories. The first is the "Core and Related Files," consisting of nearly 600,000 pages of files collected in the course of the massive FBI investigation into the assassination. The Review Board will complete its review of this significant collection by the end of fiscal year 1997. The second, which the FBI refers to as its "HSCA records," is a large collection of records that were identified as being of interest to the HSCA and which remain to be reviewed by the Board. Like the CIA's Sequestered Collection, this voluminous body of records (approximately 280,000 pages) ranges widely in relevance to the assassination.

—*The Records of Some Federal Agencies and Congressional Committees*.—Additional time will allow the Board to finish its work with several agencies, including the Secret Service, the National Security Agency, and Congressional committees, including the Senate Intelligence Committee.

—*Search for Additional Records*.—With one more year of operations, the Board's search for additional records held by Federal agencies, private individuals, and local governments would be concluded with greater confidence. Some of these records have been identified, but not yet acquired by the Board.

—*Federal Agency Compliance*.—In November 1996, the Review Board initiated a compliance program to ensure that Federal agencies have fully cooperated with the Board in discharging its responsibility of assuring Congress and the American public that the goals of the JFK Act have been accomplished to the greatest possible extent. The requests to document compliance with the JFK Act were sent to 27 U.S. government agencies and departments to confirm that the U.S. government has identified, located, and released all records relating to the assassination of President Kennedy. The agencies' statements of compliance will be included in the Review Board's final report to the Congress. The one-year extension will ensure that the compliance program is completed and fully documented in the final report.

It is important for the Review Board to complete these major projects. The Board believes that the completion of the task outlined above, the inclusion of these important records in the JFK Collection, and the documentation of Federal agency compliance as part of the final report will mark an appropriate point at which to conclude the Board's work. We are confident that all that remains for the Board can be accomplished in an additional year.

VIII. AN APPROACH TO THE REVIEW OF THE REMAINING CIA AND FBI RECORDS

It is clear to the members of the Review Board that there is much work to be done. The review of the remaining CIA and FBI records is a cumbersome and complicated task. However, the Board and staff have the benefit of our experience to date that sets the stage for an efficient and effective review of the remaining records. I would like to briefly describe our early experiences reviewing records and how the past two years set a firm foundation for the future and would work to our advantage in our last year.

Our review of records in the early months was slowed by the complexities of the issues raised in the records. The unprecedented new standards of the JFK Act, which go far beyond those established under the Freedom of Information Act, required a time-consuming early phase.

At first, the review process proceeded slowly and the agencies were afforded ample opportunity to present their evidence. Over time, the Review Board began to standardize its interpretation of the relevant section of the JFK Act and the issues raised in the various documents. Now that the Review Board and the agencies are familiar with the rigorous demands of the JFK Act, the process has accelerated. In a progressively increasing number of cases, records that initially contained proposed postponements can be released through a "consent" process. In this consent process, the ARRB staff notifies an agency that its proposed postponements are not likely to be approved by the Review Board and the agency thereupon voluntarily consents to the release of the information.

In our review of the FBI's "Core and Related Files" and the CIA's "Oswald 201 File," the records that have been the focus of our attention to date, we subjected every requested redaction to a rigorous test: did the evidence of the harm that would result from the release of the information outweigh the public interest in the information?

In considering our review of the CIA and FBI "Sequestered Collections," the Board recognized that it needed to develop a different approach, one that would take into account the varied degree of relevance of individual records to the assassination. Only in this way could the Board ensure that it would appropriately expend its resources in its last year. As a first step, the Board carefully analyzed each collection in order to determine what priority should be assigned to the category of records. In addition, the Board developed a set of guidelines for the review of these records which recognized that some categories of records did not require the intensive word-by-word review that had been the rule for the core collections that have been the subject of the Board's attention to date. The development of these guidelines began with the August 6, 1996 Board public hearing and culminated in their adoption at the October 16, 1996 Board meeting. The ARRB staff will distinguish between records whose relevance to the assassination is clear and those not believed to be relevant (or "NBR"). Applying these new standards will permit the ARRB staff to identify and review the most significant remaining records in order of priority.

These detailed guidelines will reduce the loss of valuable Review Board and ARRB staff time expended to review, on a word-by-word basis, those documents that have a remote relationship, at best, to the Kennedy assassination. Those documents that are identified as relevant to the assassination will continue to be reviewed word-by-word. These standards of relevance are designed to ensure that the greatest number of true assassination records is properly identified, reviewed, and made public in the JFK Collection at the National Archives.

The fruits of our labor from the first three years would be realized in our last year, one in which we would be reviewing some of the most difficult records, and potentially most important records, but with the benefit of our invaluable experience. I am happy to report that we have received assurances from the FBI and CIA that they will work with us in a final year to make sure that the necessary resources are applied so that our task can be completed.

IX. CONCLUSION

In making our recommendation for a one-year extension, we, the members of the Review Board, are fully cognizant of the difficulties inherent in extending a temporary commission. We are aware of the concern that temporary bodies may have a self-preserving and self-perpetuating instinct, and want to assure you in the clearest and most unambiguous manner that our recommendation is motivated strictly by our desire to complete the job. My colleagues and I were appointed as private citizens and have many competing claims on our time and energy. It is our collective conviction that the additional time is necessary and our sincerest commitment that we will complete our task by the end of fiscal year 1998, if given the means.

As I know you are aware, the Administration is supportive of the one-year extension for the Review Board and has submitted an fiscal year 1998 budget amendment for $1.6 million to allow us to complete our work, close out our operation, and submit our final report. (The Board has a budget carryover of $500,000 in no-year funds from its first year, a sum that will fund a full quarter year of its continued operation.)

In addition, we are pleased that House Government Reform and Oversight Committee Chairman Dan Burton introduced H.R. 1553, which would amend the President John F. Kennedy Assassination Records Collection Act of 1992 to extend the authorization of the Assassination Records Review Board until September 30, 1998, and authorizes $1.6 million for the Board to complete its work. The bill was cosponsored by Congressmen Henry Waxman and Louis Stokes. It passed the House of Representatives on June 23, 1997, and the Senate on June 25, 1997. H.R. 1553 has now been cleared for the President's signature. Senator Arlen Specter had introduced a companion bill in the Senate, S. 844, earlier this month. These Members have exhibited an admirable bipartisan spirit and an understanding that we as a government, and as a nation, must bring closure to a sad chapter of our history, and that we must seize this opportunity now.

Since the Review Board began this effort three years ago, we have witnessed the widespread and passionate interest that the American public has in the assassination of President Kennedy. We have received thousands of letters, telephone calls, faxes and e-mail messages from individuals who care deeply about our history. They come from all walks of life, from all over the country, and are of all ages. Their interest is of varying degrees and they do not all agree on what happened in Dallas on November 22, 1963. However, they do agree that the public has the right to see the files on the assassination.

I believe that what the Review Board is all about can be summed up in a letter we received from a man from California just last week. The author is not a profes-

sional historian, not a student working on a paper for a history class, but simply a private citizen interested in learning about this tragic historical event. He wrote the following:

"In my humble opinion, it appears that the ARRB is having a healing effect upon the American public, who may be coming to realize that there may be closure in sight (in our lifetimes) with regard to the JFK assassination."

These words capture why the Review Board was created by the Congress and why we hope that the Review Board will have the additional year to complete our task.

The Assassination Records Review Board was conceived as a means of eliminating uncertainty and speculation about the contents of government files relating to the assassination of President Kennedy. We, the members of the Board, believe that a premature termination of the Review Board would surely generate intensified doubts within the general public about the commitment of Congress to release all information that relates to the assassination of President Kennedy, as well as renewed speculation about the conduct of our government and its institutions and personnel. If appropriate closure is not reached now, the identical issues will likely have to be addressed again in the future at even greater cost. The additional year that we recommend will allow for a confident conclusion of this important task.

Mr. Chairman, and Members of the Subcommittee, on behalf of the members of the Assassination Records Review Board, I thank you for allowing us this opportunity to discuss our work and our future. The Board and staff stand ready to provide the Subcommittee with any additional information that may be required. Thank you.

QUESTIONS SUBMITTED BY SENATOR CAMPBELL

REVIEW BOARD REQUEST FOR ONE ADDITIONAL YEAR OF FUNDING

Question. In fiscal year 1997 the Review Board received $2.15 million for operations and is requesting $1.6 million for fiscal year 1998. Please explain the decrease in costs.

Answer. The Review Board has a budget carryover of $500,000 in no-year funds from its first year (fiscal year 1995), a sum that would fund a full quarter year of continued operation. The Board would consequently require $1.6 million of additional funds to operate for one final year in fiscal year 1998.

Question. Please provide the Subcommittee detailed budget justification for the Review Board for fiscal year 1998.

Answer. Please see the attached budget justification for the Review Board for fiscal year 1998.

Question. Will the Review Board be in operation throughout the entire fiscal year 1998, or will it only need to operate through part of the year?

Answer. After a careful analysis, the Review Board has concluded that it will need to be in operation throughout the entire fiscal year 1998 to ensure that: (a) the remaining assassination records are reviewed and publicly released; (b) the compliance of federal agencies is documented; and (c) a complete final report is submitted to the Congress.

Question. Does your budget request for fiscal year 1998 include costs associated with closing down the Review Board? If so, please outline them for the Subcommittee.

Answer. Yes. The total estimated cost of shutting down is $100,000. This figure includes: (a) severance pay; (b) cash-out of any unused annual leave; and (c) other costs such as the purchase of archival boxes for the storage of records at the National Archives and Records Administration, moving expenses for records, and moving expenses for furniture and equipment. The Review Board anticipates full-scale operation through July 31, 1998. The decrease in staffing for August and September 1998 will offset the costs associated with closing down the agency.

Question. What is your current FTE level and will that level be maintained throughout fiscal year 1998? If not, please provide details on the staffing decreases which will occur as the Review Board completes its work.

Answer. The Review Board's current FTE level is 31. The Review Board plans full-scale operation through July 31, 1998. It is anticipated that eight staff members will be released in August 1998 and an additional eight staff members in September 1998.

Question. Will the Review Board be able to finish it's work with the one-year extension for operation?

Answer. Yes. The additional year will permit the Review Board to finish its task by completing several major areas of work. These are identifiable projects that are

critical to ensuring that the President John F. Kennedy Assassination Records Collection is as complete as possible.

BUDGET REQUEST AND JUSTIFICATION

Object Class 11.1-Full-time staff—1,226

The amount requested for full-time permanent staff represents the requirement to fund 28 full-time positions. We plan full-scale operations through July 31, 1998. The remaining two months of fiscal year 1998 will be consumed with drafting our final report that will reflect the benefit of the additional year, completing the review of records, documenting the compliance of federal agencies, and closing down our operations. Additionally, we have included $50,000 for severance pay and unused annual leave cash-out.

Object Class 11.3—Other than full-time permanent staff—148

The amount requested in this category represents compensation to Board members and 3 intermittent employees. Each paid member of the Board will be compensated at the rate of level IV of the Executive Schedule (443.52/day) for each day the member is engaged in work for the Board. In January of fiscal year 1996 the Chair of the Board converted to non-pay status. It is estimated that during the year each of the four paid members will attend ten Board meetings and/or public hearings. The estimate represents 20 work days for each member of the board. This estimate also includes approximately $113,000 for intermittent employee salaries.

Object Class 12.1—Civilian personnel benefits—294

The estimate in this category represents the government's contribution for employee benefits at the current rate of 25 percent.

Object Class 21.0—Travel—48

The amount requested for this object class includes travel costs for Board members and staff to attend Board meetings and public hearings, travel for staff to visit records repositories and relevant individuals, meeting expenses, and local travel.

10 meetings (5 board members)	$22,000
Staff travel	20,000
Meeting expenses	3,000
Chair travel	2,000
Local travel	1,000
Total	48,000

Object Class 23.1—Rental Payments to GSA—298

The estimate for this object class represents the amount the Board will pay to the General Services Administration for office space rental totaling 10,000 sq. ft. at an annual rate of 28.87 per sq. ft. (fiscal year 1997 cost). This estimate includes an increase of 3 percent for inflation.

Object Class 23.3—Communications, utilities, misc.—18

The requested amount represents estimates for telephones, postage, express intercity service, and local delivery service. Since Board members are located in other parts of the country, it is important to distribute information to them on a timely basis. In addition, the Board anticipates intense public interest in its activities. In an effort to meet this public demand, the Board intends to continue its active public information program that includes regular mailings.

Telephone	$9,000
Postage/Postage Equipment/Delivery Services	9,000
Total	18,000

Object Class 24.0—Printing and reproduction—32

The major items in this object class are costs related to copying and copier maintenance, the publication of reports to Congress, ARRB public information items, Federal Register publication of ARRB notices, and the Final Report of the Review Board.

Federal Register notices (175 columns)	$22,000
Public and press information	5,000
Copier costs—lease/maintenance/copies	5,000
Total	32,000

Object Class 25.2-Other Services—6

The major items in this category include media services and on-line services.

Object Class 25.3—Services from other Government agencies—48

This category includes GSA administrative support services and moving expenses reimbursed to GSA.

Object Class 26.0—Supplies and materials—24

Anticipated expenses include routine office supplies, subscriptions and library materials, ADP software. This estimate is based on current operating costs and the additional expenses related to closing an agency.

Object Class 31.0—Equipment—10

This estimate includes the cost of maintenance contracts for computer hardware, software, and other office equipment.

SALARIES AND EXPENSES—OBJECT CLASSIFICATION

[In thousands of dollars]

		1997 estimate	1998 request
11.9	Total personnel compensation	1,620	1,668
21.0	Travel and transportation of persons	65	48
23.1	Rental payments to GSA	292	298
23.3	Communications, utilities, misc	24	18
24.0	Printing and reproduction	34	32
25.2	Other services	10	6
25.3	Services from government accounts	55	48
26.0	Supplies and materials	30	24
31.0	Equipment	23	10
99.9	Total obligations	2,153	2,152

FEDERAL ELECTION COMMISSION

PREPARED STATEMENT OF JOAN D. AIKENS, VICE CHAIRMAN

As Vice Chairman of the Commission and Chairman of our Finance Committee, I herewith submit testimony, on behalf of the Commission, in support of our fiscal year 1998 budget request.

From a campaign finance point of view, the 1996 election involved unprecedented amounts of financial activity, possibly over-stepping the boundaries of campaign limitations and prohibitions. This forced us to reevaluate our fiscal 1998 budget request. We are, therefore, presenting a two-part budget. I will start with a justification of the budget request we concurrently submitted to the Congress and the Office of Management and Budget on October 10, 1996. This I characterize as our floor budget. I then will speak to a compelling need to augment this budget with the resources necessary to address the extraordinary compliance issues raised in the 1996 election cycle. This augmentation is presented as an amendment to the fiscal 1998 request.

FISCAL YEAR 1998 FLOOR BUDGET: $29.3 MILLION—313.5 FTE

Our floor budget is a modest request in the face of rapidly expanding requirements, both in terms of workload volume and public sensitivity. This request was tempered by the rescission enacted in fiscal 1995 and two successive years in which our requests were rolled back by both the Office of Management and Budget and the Congress. Therefore, being sensitive to the Congress and President's quest for a balanced budget, the Commission made a decision to present two funding levels to OMB for fiscal year 1998: a reduced performance level of funding ($29.3 million and 313.5 FTE) which will support a performance level beneath which we do not believe we can responsibly go; and a standard performance level ($32.6 million and 331.5 FTE) that would roughly return us to the performance level we were approaching prior to the fiscal year 1995 rescission. The Office of Management and

Budget concurred with our $29.3 million reduced performance budget request. It is important to remember, however, this budget was formulated before certain campaign financing controversies arose during the 1996 elections.

At this floor funding level, we believe we can cover projected increases in staff salaries, rent and other overhead expenses and increase our staffing by six positions. Therefore, we can perform at roughly the same level we sustain today.

As to our core disclosure program, that performance is exceeding our projections. The financial activity level reported to the Commission in this election exceeded $2.7 billion. Despite this astonishing surge in fundraising and reporting, we will meet our 48-hour statutory deadline on indexing nearly 85,000 reports and making them available for public inspection. Our data capture of nearly 2 million itemized transactions to date has been accomplished within 30 days of report receipt—47 percent faster than the last cycle. Furthermore, we are employing better and more technologically-advanced means of getting this information to the public. For all but Senate candidate committee reports, we now employ digital imaging rather than microfilm to duplicate and display these reports to the public. On-line computer access to our data bases is available both through a subscription service and over the Internet. We inaugurated our web site in mid-February 1996; by October 1, this site had been accessed over one million times. Even though the election is behind us, public interest in our information remains exceedingly high. As of February 1997, accesses to this web site have exceeded 2 million.

New computer systems development, however, will slip slightly from our original five-year plan under this budget. We have equipped all staff with a basic level of computer support under our new network of PC's. We also are moving forward steadily with our voluntary electronic filing system under Public Law 104–79. At the floor funding level, however, we will have to slow certain planned PC network enhancements and, in particular, put off expanding our digital imaging technology for documents other than financial reports by political committees. Despite our ability to reprogram some extra funding into our computerization efforts in fiscal year 1996, our request for $3.26 million for computerization in fiscal year 1997 was cut by a larger amount to $2.5 million. Sensing that we could not expect more than the amount allowed for fiscal year 1997, and concerned about expanding the overall budget request, we have therefore limited our request for computerization in fiscal year 1998 to the same $2.5 million level. This is well below the fiscal year 1998 funding level suggested in our original Computerization Strategic and Performance Plan. Taking into consideration current budget constraints, our revised Computerization Strategic and Performance Plans for fiscal year's 1997–2002 now extends by one year the implementation period for digital imaging and adjusts upward the costs for certain fiscal years. The overall cost for the computerization initiatives will not increase over the originally-planned level, however.

We project mixed performance in our compliance programs at this level of funding. Our present field audit work largely is consumed with the eleven presidential primary campaigns, the national party conventions and three general election campaigns—all of which participated in the public funding program. About $235 million in public funds were disbursed to these committees. Our auditors are confident, however, they can meet our two-year internal deadline of releasing final reports for all these extensive audits. This timetable was aided by the Democratic primary being essentially uncontested and by many of the Republican primary candidates dropping out early in the race.

The disclosure reports of privately-financed House, Senate, PAC, and Party committees are given desk audits by our Reports Analysts. This activity serves multiple purposes. It identifies and corrects disclosure problems, thereby ensuring an accurate public record; it serves to train treasurers on how to comply with the law; and, finally, it identifies glaring problems that warrant addressing under either our enforcement or for-cause field audit programs. This activity has been strained by combining fewer staff and more and larger reports. We now have over 8,000 reporting committees. Within that number, larger committees (Senate campaigns over $500,000 and other committees over $250,000) represent the bulk of this desk audit work. The number of committees within that subset has doubled from 1982 to 1994 * * * from 568 to 1,249. In response, higher tolerance thresholds have been set in our review procedures. This reduces the workload, but it also glosses over some degree of non-compliance.

Our enforcement and litigation staff continue to be strained, despite the implementation of a similar threshold process—the Enforcement Priority System. At present, even without the Enforcement Priority System in place, the Commission has more cases awaiting assignment than being actively worked. As of January 31, 1997, we had a total caseload of 366 matters. At the beginning of fiscal year 1995, prior to the rescission, our Office of General Counsel had 32 Attorney FTE assigned

to enforcement cases. Today, we have only 26 Attorney FTE assigned to enforcement cases. To demonstrate the impact of these reductions, in 1995 we had as many as 163 cases being actively worked; now only 98 cases are active. The floor level we seek adds only 2.7 FTE to the fiscal year 1997 ceiling for the Office of General Counsel. Many of the investigations and civil actions currently underway are too important to dismiss and too complex for one or two staff to handle.

It is, therefore, a mixed message I am giving today as regards our proposed floor funding level. We fully appreciate the fiscal climate and present a request reflecting that reality. Given the workload before us, we urge this level not be reduced. At the same time, we must be candid and realistic on what can be accomplished under this budget.

This floor funding and the attached performance plan address the workload we anticipated when we developed our original budget request. The augmentation addressed in the following paragraphs addresses the unexpected compliance work arising out of the 1996 election.

FISCAL YEAR 1998 AMENDMENT: $4.9 MILLION—37 FTE

With full support from the President and OMB, we propose to augment the floor budget with a special multi-disciplined project to mount an appropriate investigative response to the extraordinary problems associated with the 1996 election.

To implement the first phase of our proposal, the FEC requested $1.7 million and 7.8 FTE to supplement our fiscal 1997 budget. Unfortunately, the recently-enacted Emergency Supplemental bill contained no provision for the FEC. At this juncture, we appeal to you, Mr. Chairman, and your colleagues, to report out a bill at the level of our fiscal 1998 amended request so that we will have the necessary funds for this agency to accomplish its mandated mission.

This election generated a third more complaints than the 1994 election. Among them are several allegations of violations of unparalleled scale. These cases entail complex factual matters, contentious legal and constitutional issues, and involve millions of dollars and thousands of financial transactions requiring detailed review. The law's confidentiality provisions preclude much elaboration on these matters, but we all read the newspapers and know well the alleged excesses that arose in this election. The alleged abuses involve fundraising from non-resident foreign nationals, the use of soft money possibly spent to circumvent the party spending limits on behalf of publicly-funded presidential candidates, coordination in assertedly independent expenditures, and massive, but undisclosed, expenditures on issue advertisements with an electioneering message by labor and business interests.

Under 2 U.S.C. § 437c(f)(3), we are seeking assistance from other investigative agencies for non-reimbursable staff details for this effort; however, given the fiscal climate, we are not optimistic about such an augmentation. We know we will need investigators, attorneys, auditors, systems analysts and clerical support staff to uncover the extent of the potential violations. Appropriate overhead expenses for space, supplies, computer hardware, travel and contractual support are also necessary. Our initial cost analysis was based on an assumption that we would cover most of this efforts' fixed start-up costs with the $1.7 million 1997 supplemental funds and then cover essentially staff and direct support costs in fiscal 1998. With the loss of the supplemental, we will now have to bear those start-up costs (mostly for computer hardware, software, and equipment, furniture and supplies) in fiscal 1998. This then reduces the number of additional staff we can afford from 47 to 37 FTE. This, in turn, means narrowing the breadth of our investigations.

We have priced this investigative effort on the attached tables which break down these expenses by the traditional object classifications. If we secure the support of details and/or services from other agencies, we will adjust these figures downward.

Until such time as we have developed more complete evidentiary records on these allegations and deliberated on whether and to what extent the law may have been broken, it is difficult to project how many discreet investigations should go forward and with what degree of depth. We also do not know the degree of cooperation or recalcitrance we may encounter from respondents. These matters warrant thorough investigations. If, however, we do not need all of the additional funds, we can either request reprogramming or lapse any funds not needed. This request is thus a "worst case" scenario.

CONCLUSION

Finally, I must emphasize, this budget request speaks only to our responsibilities under the current law. We know Congress is deliberating a number of proposals that would significantly amend the law significantly. Any additional mandate imposed on the agency for rapid implementation likely will require additional funding.

Given the variety of ideas proposed and the considerable effort involved in formulating cost projections thereon, we would rather defer a cost analysis on these proposals until enactment of a given set of proposals looks likely.

This concludes our testimony. We stand ready to provide the Subcommittee with any additional information it may require.

FISCAL YEAR 1998 FEC BUDGET REQUEST AS AMENDED, NO FISCAL YEAR SUPPLEMENTAL FEC STAFFING BY FTE (FULL TIME EQUIVALENT)

[In fiscal years]

Office	1995 post-rescission	1996 actual	1997 M. plan current	FEC historical FTE			1998 amendment 24-June	1998 request amended
				1997 M. plan supplement	1997 M. plan final	1998 reduced perfor.		
Commissioners	19.1	16.3	17.7	.....	17.7	18.0	.....	18.0
Staff director	26.1	25.8	25.0	.....	25.0	25.0	.....	25.0
Administration	19.2	20.0	20.0	.....	20.0	20.0	.....	20.0
Audit	31.3	37.3	34.3	.....	34.3	34.0	8	42.0
Information	13.5	12.7	13.0	.....	13.0	13.0	.....	13.0
General counsel	104.3	95.3	93.3	.....	93.3	96.0	27	123.0
Clearinghouse	6.0	5.2	5.0	.....	5.0	5.0	.....	5.0
Data systems	35.0	30.7	35.0	.....	35.0	35.0	2	37.0
Public disclosure	14.6	14.6	13.3	.....	13.3	14.0	.....	14.0
Reports analysis	41.9	40.4	41.0	.....	41.0	42.0	.....	42.0
Office of Inspector General	3.8	4.0	4.0	.....	4.0	3.0	.....	3.0
Subtotal	314.8	302.3	301.6	.....	301.6	305.0	37	342.0
ADP/EF	NA	6.2	5.3	.....	5.3	8.5	.....	8.5
Total	314.8	308.5	306.9	.....	306.9	313.5	37	350.5

FEC FISCAL YEAR 1998 AMENDED BUDGET REQUEST, NO FISCAL YEAR 1997 SUPPLEMENTAL

	No fiscal year 1997 supplemental			Administration	Total
	OGC	Audit	Data		
Total costs:					
Personnel	$1,726,000	$282,000	$104,000	.....	$2,112,000
ADP equipment	279,500	70,500	17,000	.....	367,000
ADP support	.....	.....	100,000	.....	100,000
Training	.....	.....	10,000	.....	10,000
Furniture/equipment	.....	.....	.....	$185,000	185,000
Space	.....	.....	.....	408,600	408,600
Phones	.....	.....	.....	37,000	37,000
Copy equipment	31,500	.....	.....	.....	31,500
Supplies	.....	.....	.....	74,000	74,000
Basic overhead	311,000	70,500	127,000	704,600	1,213,100
Travel	60,000	50,000	.....	.....	110,000
Depositions	110,000	.....	.....	.....	110,000
Litigation document:					
Support	1,320,495	.....	.....	.....	1,320,495
Equipment	50,000	.....	.....	.....	50,000
Subtotal	1,540,495	50,000	.....	.....	1,590,495
Fiscal year 1998 total	3,577,495	402,500	231,000	704,600	4,915,595
Start-up costs:					
Personnel	.....	.....	.....	.....	.....
ADP equipment	279,500	70,500	17,000	.....	367,000

FEC FISCAL YEAR 1998 AMENDED BUDGET REQUEST, NO FISCAL YEAR 1997 SUPPLEMENTAL—Continued

	No fiscal year 1997 supplemental			Administration	Total
	OGC	Audit	Data		
ADP support					
Training					
Furniture/equipment				185,000	185,000
Space					
Phones				18,500	18,500
Copy equipment					
Supplies					
Basic overhead	279,500	70,500	17,000	203,500	570,500
Travel					
Depositions					
Litigation document:					
Support					
Equipment	50,000				50,000
Subtotal	50,000				50,000
Fiscal year 1998 total	329,500	70,500	17,000	203,500	620,500
On-going costs:					
Personnel	1,726,000	282,000	104,000		2,112,000
ADP equipment					
ADP support			100,000		100,000
Training			10,000		10,000
Furniture/equipment					
Space				408,600	408,600
Phones				18,500	18,500
Copy equipment	31,500				31,500
Supplies				74,000	74,000
Basic overhead	31,500		110,000	501,100	642,600
Travel	60,000	50,000			110,000
Depositions	110,000				110,000
Litigation document:					
Support	1,320,495				1,320,495
Equipment					
Subtotal	1,490,495	50,000			1,540,495
Fiscal year 1998 total	3,247,995	332,000	214,000	501,100	4,295,095

FISCAL YEAR 1998 BUDGET REQUEST OBJECT CLASS SUMMARY

[In fiscal years]

Object class	FEC 1998 budget request object class detail				Change amendment Jan.-97	1998 amendment Jan.-97
	1996 actual Sept.-96	1997 M. plan Oct.-96	Change 97 to 98 Jan.-97	1998 red. perf Oct.-96		
Salaries and benefits	$18,654,291	$19,632,500	$1,084,500	$20,717,000	$2,112,000	$22,829,000
Overtime	73,249	122,000	(55,000)	67,000		67,000
Witnesses	997	5,000		5,000		5,000
Cash awards	170,789	200,000	70,000	270,000		270,000
Other	27,146	10,000	35,000	45,000		45,000
Total personnel	18,926,472	19,969,500	1,134,500	21,104,000	2,112,000	23,216,000
Travel	140,939	208,000	58,000	266,000	110,000	376,000
Transportation of things	21,122	23,000	4,000	27,000		27,000

FISCAL YEAR 1998 BUDGET REQUEST OBJECT CLASS SUMMARY—Continued

[In fiscal years]

Object class	FEC 1998 budget request object class detail				Change amendment Jan.-97	1998 amendment Jan.-97
	1996 actual Sept.-96	1997 M. plan Oct.-96	Change 97 to 98 Jan.-97	1998 red. perf Oct.-96		
GSA space	2,527,167	2,535,000	86,000	2,621,000	408,600	3,029,600
Commercial space	24,502	26,000	.....	26,000	.....	26,000
Equipment rental	83,762	88,300	1,700	90,000	31,500	121,500
Telephone local	180,633	170,000	10,000	180,000	33,500	213,500
Long distance/telegraph	11,277	10,500	500	11,000	.....	11,000
Telephone intercity	78,514	80,000	5,000	85,000	3,500	88,500
Postage	229,159	230,000	10,000	240,000	.....	240,000
Printing	293,669	300,000	(28,000)	272,000	.....	272,000
Microfilm prints	29,167	28,000	2,000	30,000	.....	30,000
Training	40,181	56,383	9,617	66,000	10,000	76,000
Administration expenses	80,127	69,420	13,580	83,000	.....	83,000
Depositions/transcripts	28,700	36,000	3,000	39,000	110,000	149,000
Contracts/other	724,676	686,500	7,500	694,000	1,420,495	2,114,495
Building maintenance	15,606	11,080	(6,080)	5,000	.....	5,000
Other repairs/maintenance	281,259	286,200	26,800	313,000	.....	313,000
Tuition	6,413	3,617	2,383	6,000	.....	6,000
Software, hardware	190,632	225,000	20,000	245,000	.....	245,000
Federal agency service	298,892	282,500	500	283,000	.....	283,000
Supplies and materials	331,287	255,000	5,000	260,000	74,000	334,000
Publications	128,472	133,500	3,500	137,000	.....	137,000
Publications service	122,082	124,000	3,000	127,000	.....	127,000
Equipment purchases	135,015	117,000	(21,500)	95,500	602,000	697,500
Computerization: EF/AD	1,546,465	2,210,500	(216,000)	1,994,500	.....	1,994,500
Nonpersonnel total	7,549,718	8,195,500	500	8,196,000	2,803,595	10,999,595
Total FEC	26,476,190	28,165,000	1,135,000	29,300,000	4,915,595	34,215,595

Transactions entered into data base each election cycle: 1994–96—as of December of election year

Election cycle	*Transactions*
1984	365,796
1986	234,530
1988	620,263
1990	720,443
1992	1,076,315
1994	1,191,272
1996	1,799,827

Total disbursements in Federal elections includes reportable "soft money"

(In millions of dollars)

Election cycle	*Total disbursement*
1976	$310
1978	386
1980	768
1982	95
1984	1,259
1986	1,094
1988	1,607
1990	1,115
1992	2,051
1994	1,708
1996	[1] 2,650
1998	[2] 2,000

[1] Projected 12/31/96.
[2] Estimate.

1980–1996 Presidential elections: Certification of primary matching funds; millions of dollars certified per audit FTE

Election cycle	*Amount*
1980	$2.18
1984	2.81
1988	4.27
1992	4.99
1996	6.30

QUESTIONS SUBMITTED BY SENATOR CAMPBELL

ADP BUDGET

Question. Much of the FEC public records work and in the agency's fiscal year 1998 amended request notes that further modernization of ADP will result in some savings in staff resources. Please explain, in light of these potential savings, why the FEC has planned for a $216,000 reduction in the ADP budget?

Answer. The Commission has not planned a reduction in the ADP/Electronic Filing projects budget. The attached spreadsheets for fiscal year 1997 and 1998 depict the total planned expenditures for the ADP/EF projects is $2,519,496 in fiscal year 1997 and $2,516,000 in fiscal year 1998, which is virtually the same. The summary by object class is somewhat misleading in that it depicts a $216,000 decrease in non-personnel costs allocated to the ADP/EF projects from fiscal year 1997 to fiscal year 1998; however, this number does not include personnel costs for the projects. The difference is made up in personnel, with 5.3 FTE planned in fiscal year 1997 and 8.5 FTE budgeted for fiscal year 1998. This reflects need for staff to design, implement, maintain, service, and train users of the new systems in fiscal year 1998 and beyond.

ORIGINAL FEDERAL ELECTION COMMISSION AMENDED FISCAL YEAR 1998 BUDGET REQUEST

Division/office	Fiscal years		Supplement 1997	Final 1997	Fiscal year 1998	Amendment 1998	Final 1998
	1996	1997					
Commissioners	$1,652,437	$1,817,675	.....	$1,817,675	$1,930,500	.....	$1,930,500
Staff director	1,926,607	2,052,499	.....	2,052,499	2,007,500	.....	2,007,500
SDO/COM.							
SEC	824,583	899,037	.....	899,037	882,000	.....	882,000
P AND M	167,567	201,967	.....	201,967	184,500	.....	184,500
Personnel	443,578	473,559	.....	473,559	442,000	.....	442,000
Press	401,652	386,440	.....	386,440	399,000	.....	399,000
EEO	89,227	91,496	.....	91,496	100,000	.....	100,000
Administration	4,803,343	4,849,538	448,783	5,298,321	5,046,900	605,100	5,652,000
Audit	2,216,413	2,375,714	157,550	2,533,264	2,460,000	401,500	2,861,500
Information	921,093	956,341	.....	956,341	972,000	.....	972,000
OGC	7,012,057	7,258,667	1,041,262	8,299,929	7,744,100	3,697,495	11,441,595
Clearinghouse	492,340	503,252	.....	503,252	526,000	.....	526,000
Data systems	3,008,497	2,903,200	61,320	2,964,520	3,047,000	211,500	3,258,500
Public disclosure	885,013	794,191	.....	794,191	852,500	.....	852,500
RAD	1,738,233	1,861,777	.....	1,861,777	1,967,500	.....	1,967,500
IG	246,192	272,650	.....	272,650	230,000	.....	230,000
ADP/EF	1,573,965	2,519,496	.....	2,519,496	2,516,000	.....	2,516,000
Total	26,476,190	28,165,000	1,708,915	29,873,915	29,300,000	4,915,595	34,215,595

Notes: Cash awards are not distributed by office in fiscal years 1997 and 1998; they are budgeted for areasand held in the personnel office, P and M, OGC, AUDIT, and SDO until awarded.

Administration overhead such as space and supplies are allocated to the administration division in the fiscal year 1997 supplemental and fiscal year 1998 amendment packages as they normally are.

Fiscal year 1996 reflects lapse to Treasury as of 9/30/96 of $14,810 to cover outstanding obligations made but not finally paid as of 9/30/96 (potential changes in final payments).

Budgets for the SDO components are subtotals of the SDO total.

CONTRACT SERVICES/INCREMENTAL SUPPORT COSTS

Question. Please provide for the Subcommittee a detailed outline of how the FEC intends to obligate the $1.343 million in the Contract costs/other object class 25.2 Answer. The $1.343 million referenced reflected the increment to this object class from the original FEC "Reduced performance Level" request of $29.3 million to proc-

ess the extraordinary cases arising from the 1996 elections. The $1.343 million cost included two major elements:

Original fiscal year 1998 incremental budget request for 1996 cases

Litigation document control services (OGC)	$1,243,125
ADP support (data systems)	100,000
Total object class 25.21	1,343,125

The estimate for document control services is based on volume estimates for documents and pages to be scanned and indexed, and vendor fee schedules for that service. The ADP costs were an increment to existing Data Systems infrastructure support for 47 additional FTE in fiscal year 1998.

Because our requested fiscal year 1997 Supplemental was not approved, we will be unable to support 47 FTE with the requested increment for fiscal year 1998, as start-up costs initially contained in the fiscal year 1997 supplemental now will be expended in the fiscal year 1998 budget. As a result, only 37 FTE will be supported, but the infrastructure support still will be necessary. However, work on the enforcement cases which was to be initiated in fiscal year 1997 now will occur in fiscal year 1998. Up-front work such as preparing documents and initial organizational case work will take place; further investigational efforts will be delayed because of diminished staff resources As a result of these changes, the incremental support costs are as follows:

Revised fiscal year 1998 incremental budget request for 1996 cases

Litigation document control services (OGC)	$1,320,495
ADP support (data systems)	100,000
Total object class 25.21	1,420,495

The contract services are for on-going litigation and enforcement efforts, and are not to be confused with the developmental work contained in the ADP/EF project funds. Those funds will develop and implement the FEC's own case management and document control systems for future work.

FISCAL YEAR 1998 BUDGET REQUEST OBJECT CLASS SUMMARY

[In fiscal years]

Object class	FEC 1998 budget request object class detail				Change amendment Jan.-97	1998 amendment Jan.-97
	1996 actual Sept.-96	1997 M. plan Oct.-96	Change 97 to 98 Jan.-97	1998 red. perf Oct.-96		
Salaries and benefits	$18,654,291	$19,632,500	$1,084,500	$20,717,000	$2,112,000	$22,829,000
Overtime	73,249	122,000	(55,000)	67,000	.....	67,000
Witnesses	997	5,000	.....	5,000	.....	5,000
Cash awards	170,789	200,000	70,000	270,000	.....	270,000
Other	27,146	10,000	35,000	45,000	.....	45,000
Total personnel	18,926,472	19,969,500	1,134,500	21,104,000	2,112,000	23,216,000
Travel	140,939	208,000	58,000	266,000	110,000	376,000
Transportation of things	21,122	23,000	4,000	27,000	.....	27,000
GSA space	2,527,167	2,535,000	86,000	2,621,000	408,600	3,029,600
Commercial space	24,502	26,000	.....	26,000	.....	26,000
Equipment rental	83,762	88,300	1,700	90,000	31,500	121,500
Telephone local	180,633	170,000	10,000	180,000	33,500	213,500
Long distance/telegraph	11,277	10,500	500	11,000	.....	11,000
Telephone intercity	78,514	80,000	5,000	85,000	3,500	88,500
Postage	229,159	230,000	10,000	240,000	.....	240,000
Printing	293,669	300,000	(28,000)	272,000	.....	272,000
Microfilm prints	29,167	28,000	2,000	30,000	.....	30,000
Training	40,181	56,383	9,617	66,000	10,000	76,000
Administration expenses	80,127	69,420	13,580	83,000	.....	83,000
Depositions/transcripts	28,700	36,000	3,000	39,000	110,000	149,000
Contracts/other	724,676	686,500	7,500	694,000	1,420,495	2,114,495
Building maintenance	15,606	11,080	(6,080)	5,000	.....	5,000
Other repairs/maintenance	281,259	286,200	26,800	313,000	.....	313,000

FISCAL YEAR 1998 BUDGET REQUEST OBJECT CLASS SUMMARY—Continued

[In fiscal years]

Object class	FEC 1998 budget request object class detail				Change amendment Jan.-97	1998 amendment Jan.-97
	1996 actual Sept.-96	1997 M. plan Oct.-96	Change 97 to 98 Jan.-97	1998 red. perf Oct.-96		
Tuition	6,413	3,617	2,383	6,000	.....	6,000
Software, hardware	190,632	225,000	20,000	245,000	.....	245,000
Federal agency service	298,892	282,500	500	283,000	.....	283,000
Supplies and materials	331,287	255,000	5,000	260,000	74,000	334,000
Publications	128,472	133,500	3,500	137,000	.....	137,000
Publications service	122,082	124,000	3,000	127,000	.....	127,000
Equipment purchases	135,015	117,000	(21,500)	95,500	602,000	697,500
Computerization: EF/AD	1,546,465	2,210,500	(216,000)	1,994,500	.....	1,994,500
Nonpersonnel total	7,549,718	8,195,500	500	8,196,000	2,803,595	10,999,595
Total FEC	26,476,190	28,165,000	1,135,000	29,300,000	4,915,595	34,215,595

COLA REQUEST

Question. What is the COLA percentage rate requested in the fiscal year 1998 amended budget request?

Answer. The projected COLA's, based on OMB guidance at the time of the preparation of the fiscal year 1998 budget request, were 3.0 percent for fiscal year 1997 (effective January 1997) and 3.1 percent for fiscal year 1998 (effective January 1998, or for approximately 75 percent of the fiscal year). The effective 1998 increase was, therefore, 2.33 percent in fiscal year 1998.

REDUCED BUDGET ASSUMPTIONS

Question. Please provide a detailed breakdown of the activities the FEC will not be able to continue if the fiscal year funding level is 5 percent, 10 percent or 15 percent below the amended request rate.

Answer. As noted in our testimony, our amended budget is based upon an extraordinary additional compliance workload related to the 1996 election. Because of the law's strict confidentiality provision, we cannot speak to the issues before the Commission, except in the most general terms. Until we have a reasonable idea of the resources we will receive for fiscal year 1998, the Commission cannot determine either how many investigations and audits to mount or what mix of cases (new and old—complex and simple) best serve the law's remedial and deterrent goals. If our budget is reduced, tough decision-making will be required to parse out insufficient funds for the competing interests of compliance, disclosure, education, and prudent agency administration. Staff levels that can be supported at the specified funding levels are outlined below; however, we cannot specify what necessary work would not be undertaken at these levels.

Our original amended request of $34.2 million was presumed to support a total of 360.5 staff members expressed as full-time equivalents (FTE's). With the loss of the fiscal year 1997 supplemental, however, we now must absorb the major start-up costs for the incremental units within fiscal year 1998. Most of that money is needed for a one-time case management computer support contract and desk top computing equipment for the additional staff. Having to bear this cost in fiscal year 1998 means we already will have lost 10 FTE. That amounts to a 20 percent reduction in the incremental staff we want to apply to the 1996 election compliance work. Fewer investigations will be commenced and those undertaken must be narrowed in focus and likely will take longer to resolve.

Five percent of $34.2 million amounts to $1.71. While this is roughly the same amount lost when the supplemental was rejected, more of it would have to be taken from staff salaries. Including salaries, benefits and all the associated equipment, supplies, space and overhead, the loss of that amount translates to about 15 FTE. The loss of another 15 staff means initiating even fewer cases and audits, and those commenced would take longer (which matters would be foregone would be the subject of considerable analysis and deliberation).

A ten percent reduction would represent the loss of an additional 15 FTE, which, when combined with the 10 FTE lost because of the rejected supplemental and the 15 FTE noted above, effectively eliminates 40 of the 47 FTE increment sought in

the amendment. At this point, the Commission would have no augmentation in the face of the high profile compliance issues that arose during and immediately following the 1996 election. At least some of the major compliance matters nonetheless demand concerted Commission investigation and this will divert resources from the regular caseload. This, in turn, will result in more summary closings without proper resolution and possible court challenges by aggrieved complainants. Cuts in other activities, such as proactive outreach and training, in all likelihood will be required. Such training reduces costly compliance problems within the regulated community and facilitates voluntary compliance, so making such reductions can result in long-term inefficiencies.

A fifteen percent reduction goes even further and cuts into the original floor level of funding which would have sustained 313.5 FTE. At 15 percent off our amendment request, we project we could support only about 305.5 FTE and have limited support funds for travel, equipment and supplies. This level is below what the Commission deemed its floor level to meet its statutory obligations before encountering the 1996 election excesses. It is likely the tradeoffs to adapt to this level funding also would result in delayed implementation of computer systems development.

REDUCED FTE ASSUMPTIONS

Question. Please provide a detailed breakdown of activities the FEC will not continue if the requested FTE are not provided.

Answer. The Commission is structured to make its programmatic and administrative decisions in a collegial fashion. Beyond the general response to this question outlined immediately above, we are not yet in a position to provide greater specificity. We certainly hope we will not have to make such decisions, but if so, they would be set out in a management plan for fiscal year 1998 once we know the funding level. As detailed as our management plans have been, even here we are guarded when speaking to our enforcement and audit workloads because of the confidentiality provision. Therefore, we respectfully must demur on forecasting greater specificity at this time.

FISCAL YEAR 1998 FEC BUDGET REQUEST AS AMENDED, NO FISCAL YEAR SUPPLEMENTAL FEC STAFFING BY FTE (FULL TIME EQUIVALENT)

[In fiscal years]

Office	1995 actual	1996 actual	1997 M. plan current	FEC historical FTE			1998 amendment 24-June	1998 request amended
				1997 M. plan supplement	1997 M. plan final	1998 reduced perfor.		
Commissioners	19.1	16.3	17.7	.....	17.7	18.0	.....	18.0
Staff director	26.1	25.8	25.0	.....	25.0	25.0	.....	25.0
Administration	19.2	20.0	20.0	.....	20.0	20.0	.....	20.0
Audit	31.3	37.3	34.3	.....	34.3	34.0	8	42.0
Information	13.5	12.7	13.0	.....	13.0	13.0	.....	13.0
General counsel	104.3	95.3	93.3	.....	93.3	96.0	27	123.0
Clearinghouse	6.0	5.2	5.0	.....	5.0	5.0	.....	5.0
Data systems	35.0	30.7	35.0	.....	35.0	35.0	2	37.0
Public disclosure	14.6	14.6	13.3	.....	13.3	14.0	.....	14.0
Reports analysis	41.9	40.4	41.0	.....	41.0	42.0	.....	42.0
Office of Inspector General	3.8	4.0	4.0	.....	4.0	3.0	.....	3.0
Subtotal	314.8	302.3	301.6	.....	301.6	305.0	37	342.0
ADP/EF	NA	6.2	5.3	.....	5.3	8.5	.....	8.5
Total	314.8	308.5	306.9	.....	306.9	313.5	37	350.5

FEC FISCAL YEAR 1998 AMENDED BUDGET REQUEST, NO FISCAL YEAR 1997 SUPPLEMENTAL

	No fiscal year 1997 supplemental			Administration	Total
	OGC	Audit	Data		
Total costs:					
Personnel	$1,726,000	$282,000	$104,000	.....	$2,112,000

FEC FISCAL YEAR 1998 AMENDED BUDGET REQUEST, NO FISCAL YEAR 1997 SUPPLEMENTAL—Continued

	No fiscal year 1997 supplemental			Administration	Total
	OGC	Audit	Data		
ADP equipment	279,500	70,500	17,000	.....	367,000
ADP support	.....	.....	100,000	.....	100,000
Training	.....	.....	10,000	.....	10,000
Furniture/equipment	.....	.....	.....	$185,000	185,000
Space	.....	.....	.....	408,600	408,600
Phones	.....	.....	.....	37,000	37,000
Copy equipment	31,500	.....	.....	.....	31,500
Supplies	.....	.....	.....	74,000	74,000
Basic overhead	311,000	70,500	127,000	704,600	1,213,100
Travel	60,000	50,000	.....	.....	110,000
Depositions	110,000	.....	.....	.....	110,000
Litigation document:					
Support	1,320,495	.....	.....	.....	1,320,495
Equipment	50,000	.....	.....	.....	50,000
Subtotal	1,540,495	50,000	.....	.....	1,590,495
Fiscal year 1998 total	3,577,495	402,500	231,000	704,600	4,915,595

FEC ENFORCEMENT ACTIVITIES; REQUEST FOR FBI DETAILS

Question. On March 10, 1997, the FEC contacted the Justice Department to request the use of FBI services to enhance the enforcement activities of the FEC. What was the Department of Justice's response?

Answer. Although no decision has been reached yet, staff from the Department of Justice and the FEC have met to discuss the possibility of FBI or other DOJ personnel enhancing the Commission's enforcement activities.

PROPOSED "SOFT MONEY" BAN; EFFECT ON FEC RESOURCES

Question. The President recently suggested eliminating "soft" or "in kind" campaign contributions. How would this change impact FEC resources and responsibilities?

Answer. While the Commission has received and released for public comment two petitions for rulemaking on "soft money", neither petition addresses "in-kind" campaign contributions. The Commission is still in the very early stages of considering these petitions and, in accordance with agency rules, has not yet taken any position on the merits of the proposals. For this reason, it is impossible to predict what impact any change would have, as the range of potential outcomes remains broad.

CLEARINGHOUSE OF ELECTION ADMINISTRATION

Question. The Clearinghouse on Election Administration provides information to election administrators. Please provide a breakdown of the costs associated with maintaining this and related databases.

Answer. The Clearinghouse is comprised of 5 staff (6 prior to the fiscal year 1995 appropriation), and has responsibility for implementing aspects of the NVRA among more continuing responsibilities. An annual research budget of $50,000 to $100,000 (depending on FEC funding) provides for contracts to produce products for use by state and local administrators of federal elections. The Clearinghouse staff acts as a resource for election administrators, and provides assistance to foreign election officials, particularly for developing democracies. The total Clearinghouse budget is normally about $500,000. fiscal year 1996 (actual), 1997 (planned), and the proposed fiscal year 1998 budget are compared below:

CLEARINGHOUSE BUDGETS

Object class	Fiscal years—		
	1996	1997	1998
Personnel	$387,889	$377,022	$400,000
Travel	10,853	35,000	45,000
Contracts	44,901	55,000	55,000
Printing	42,465	30,000	20,000
Other	6,232	6,438	6,000
Total budget	492,340	503,440	526,000
Staffing (FTE)	5.1	[1] 4.2	5.0

[1] Projected.

COLA'S/LOCALITY PAY

Question. The FEC budget request includes a pay increase of 3.1 percent in fiscal year 1998 to cover [the cost of] the COLA and locality pay increases. Please adjust the budget request to reflect the fiscal year 1998 pay increase of 2.8 percent only.

Answer. A pay increase of 2.8 percent effective January 1, 1998 percent versus a pay increase of 3.1 percent results in a reduction of $40,000 from our base request of $29,300,000 and a reduction of $5,000 from our requested fiscal year 1998 increment of $4.9 million. The total adjustment for fiscal year 1998 would be: $45,000 (the difference between an effective cost of 2.33 percent and an effective cost of 2.1 percent). However, we note the requested fiscal year 1998 budget did not include any costs for the newly-proposed increase in employer contributions to the CSRS funds. A .5 percent increase in CSRS contributions would cost the FEC $35,000 in fiscal year 1998. For illustrative purposes, raising the CSRS contributions in fiscal year 1998 would result in the following increases:

Increase in agency CSRS contributions

Agency increase to CSRS	*FEC Cost in FY 1998*
7 to 7.5 percent	$35,000
7 to 8 percent	70,000
7 to 8.5 percent	105,000

In sum, a .5 percent increase in CSRS agency contributions would offset the decrease in COLA costs in fiscal year 1998. Any increase in agency CSRS contributions above .5 percent would more than offset any savings from the COLA reduction.

FEDERAL LABOR RELATIONS AUTHORITY

PREPARED STATEMENT OF PHYLLIS N. SEGAL, CHAIR

I. INTRODUCTION

Mr. Chairman and distinguished Members of the Committee: I welcome this opportunity to present the FLRA's fiscal year 1998 appropriations request and discuss the FLRA's contributions toward improving labor-management relations government-wide, as well as the improvements the FLRA has made in its internal operations. I am pleased to report that the FLRA is meeting the challenges posed by a constrained budget by increasing the efficiency and effectiveness in how we carry out the responsibility entrusted to us by Congress.

We continue, as we must, to meet our statutory responsibility to investigate, prosecute and decide cases, and resolve bargaining impasses. However, instead of seeing this enforcement/adjudicatory role as an end in itself, our focus has shifted to giving employers and unions the tools with which they can carry on a constructive labor-management relationship, in which they are largely able to solve their own problems within the structure of rights and responsibilities created by the law. Our success is essential because the effectiveness of the FLRA has an impact throughout the government. We call it the "multiplier effect"—every dispute that we resolve expeditiously or, better yet, prevent from ripening into a case that must be litigated and decided, saves money for the agencies and employees involved.

As Chair of the FLRA, I have two distinct responsibilities, which are reflected in today's testimony. First, I am the Chief Executive and Administrative Officer of the FLRA, responsible for providing leadership to its three primary, independent components: the Authority, the Office of the General Counsel and the Federal Service Impasses Panel (the Panel). Second, I am the Chair of the three-Member Authority, responsible for the agency's adjudicatory functions.

I will first testify in my capacity as the FLRA's Chief Executive and Administrative Officer, reviewing the FLRA's mission and general operations, our appropriations request, and our overall agency accomplishments and initiatives. I will then outline the accomplishments and initiatives of the Authority.

II. THE FLRA

A. Our mission and operation

The FLRA is an independent agency which administers the labor-management relations program for 1.9 million non-postal Federal employees world-wide, over 1.3 million of whom are exclusively represented in more than 2,200 bargaining units. The FLRA is charged by statute with providing leadership in Federal labor-management relations and with resolving disputes under and ensuring compliance with Title VII of the Civil Service Reform Act of 1978, known as the Federal Service Labor-Management Relations Statute (the Statute).

The Authority is really three agencies consolidated into one. Each component is independent and performs very different functions. In addition to the three separate components, the FLRA also provides staff support for two other organizations. Let me briefly outline each:

1. The Authority

The Authority consists of three Members who are appointed by the President with the advice and consent of the Senate. The Authority adjudicates disputes arising under the Statute, and assists Federal agencies and unions in understanding the Statute. In addition to deciding cases concerning unfair labor practices, arbitration, negotiability and representation issues, the Authority also works to help parties understand their rights and responsibilities under the Statute and facilitate collaborative problem-solving relationships between agencies and unions. The Authority includes the Office of Administrative Law Judges, the Office of the Solicitor, the Office of the Inspector General, and provides central agency management and administrative support to all FLRA components. In addition, the Authority provides staff support to the Foreign Service Labor Relations Board.

2. The Office of General Counsel

The FLRA's Office of General Counsel is the investigative and prosecutorial component of the FLRA. The General Counsel, who is appointed by the President with the advice and consent of the Senate, is charged with (1) investigating unfair labor practice charges; (2) establishing policies and procedures for processing unfair labor practice charges, including the active encouragement of dispute resolution; (3) filing and prosecuting unfair labor practice complaints before the Authority; and (4) supervising the Regional directors in carrying out their responsibilities to process representation petitions and supervise elections. The General Counsel is also responsible for the management of the Office of General Counsel employees, who make up over one-half of the FLRA's total work force.

3. The Federal Service Impasses Panel

The Panel consists of seven Presidential appointees who serve on a part-time basis, and are supported by a small full-time staff. The Panel resolves impasses between Federal agencies and unions representing Federal employees arising from negotiations over conditions of employment under the Statute and the Federal Employees Flexible and Compressed Work Schedules Act. In short, the Panel is the last step in Federal sector collective bargaining—the substitute for the strike and lockout in the private sector. The Panel staff also supports the Foreign Service Impasse Disputes Panel.

4. The Foreign Service Labor Relations Board

The Foreign Service Labor Relations Board (the Board), established under the Foreign Service Act of 1980 (the Act), administers the Act and is composed of three members. The Board resolves labor-management policy issues within the Foreign Service work force.

5. The Foreign Service Impasse Disputes Panel

The Foreign Service Impasse Disputes Panel, also established under the Foreign Service Act of 1980, resolves impasses arising from collective bargaining over conditions of employment affecting Foreign Service personnel. The Disputes Panel is composed of five members.

B. Appropriation request

The FLRA's fiscal year 1998 appropriations request supports all of these operational components. It totals $22,039,000, which will fully fund 216 full-time equivalent (FTE) workyears of effort. This request is 2 percent, or $402,000, higher than the fiscal year 1997 estimate.

The additional funding we are requesting for fiscal year 1998 includes: (1) $432,000 to fully fund 216 FTE's by providing the full-year cost of fiscal year 1997 and fiscal year 1998 pay increases of 2.8 percent, periodic within-grade increases, career-ladder promotions, employee awards, and increased employee benefit costs; and (2) $35,000 to provide for small increases in the costs of contracting out the travel processing and ADP support function (offset by salary and benefit savings due to FTE reductions in these areas), accounting and payroll support, and other miscellaneous service costs.

As a result of space reductions in headquarters and Regional offices, we will be reducing rental payments to GSA by $65,000 in fiscal year 1998. This rent reduction allows us to make a smaller total request for our fiscal year 1998 funding than would otherwise be necessary.

The FLRA's request for 216 authorized FTE's in fiscal year 1998 represents a 14 percent decrease in our work force since fiscal year 1993 (the baseline year for federal work force reduction initiatives) and maintains the agency at the same level authorized in fiscal year 1997. This current staffing level is 33 percent smaller than it was in 1980, FLRA's first full operating year.

Approximately 80 percent of the FLRA's fiscal year 1998 budget request is attributable to employee compensation and benefit costs. Office rent and telecommunications account for another 11 percent of the budget. The remaining nine percent of the budget accounts for all other spending, which includes:-the travel necessary to investigate, prosecute, and adjudicate complaints; transcription costs to provide a record of formal hearing proceedings; purchase of current legal research materials; costs associated with printing and issuing bound volumes of Authority decisions; employee development and training; and equipment maintenance, repair, and replacement.

This analysis clearly demonstrates that the FLRA's work is personnel intensive, leaving little flexibility to absorb budget reductions or mandatory cost increases, such as pay raises. Any reduction in our budget of necessity translates into a reduction in staff, which leads directly to a diminished ability to fulfill our mission. In addition, if it becomes necessary to decrease staff, we would lose our newest staff members, in whom we have invested training and mentoring, and without whom the FLRA would be unable to provide the optimal level of service. We would also lose the benefits of having a stable work force that will allow us to continue our commitment to effectively carrying out our mission in the years ahead.

In this era of necessary "downsizing", we believe that the FLRA is currently "rightsized" at 216 FTE's to provide the level of service that is necessary to deal with the current workload, and address the backlog in the FLRA's caseload inventory.

C. FLRA accomplishments and initiatives

Since my arrival as the FLRA Chair in July of 1994, I have worked closely with the Authority Members, the General Counsel, and the Panel Chair to continuously improve FLRA management and operations. We have strengthened the quality of our customer service by recognizing that our separate components share a unified mission. This has been a dramatic shift from the way the FLRA historically operated, when each component focused solely on its area of responsibility.

One example of how we are successfully working together is the new representation regulations which went into effect in March of 1996.

Representation issues involve such questions as when employees are represented in a bargaining unit and with which union the agency must bargain. These issues proliferate when agencies reorganize or downsize. Our new regulations streamline the representation petition process, expedite the procedures for conducting elections, and create procedures to narrow and resolve issues once a petition is filed.

Another important initiative is the promotion of efficient Federal sector labor-management relationships by providing assistance, facilitation, education, training, and intervention services. I am very pleased to report that, in 1996, the FLRA

launched its Collaboration and Alternative Dispute Resolution (CADR) program. This is the first ever agency-wide program dedicated to improving the parties relationship, helping them solve problems themselves before they become cases, and thereby reducing the cost of conflict and litigation in the Federal sector.

CADR expands, and provides overall coordination and leadership to strengthen, the FLRA's labor-management cooperation and ADR efforts. I would like to offer two examples of this in practice. For the first time, we are using ADR techniques in the negotiability appeals process, to help parties resolve their disputes without a formal decision. In the area of unfair labor practice charges, ADR has been integrated into every step of the process: when charges are filed, which is leading to fewer cases being litigated (which the General Counsel will discuss); and at the hearing stage, when the Administrative Law Judge settlement project pro-actively encourages the voluntary settlement of cases, reducing the number that are settled on the "court house steps."

In fiscal year 1996, the FLRA conducted hundreds of training and intervention programs for thousands of participants nationwide, on rights and responsibilities under the Statute, interest-based problem-solving, and alternative dispute resolution. This year, as the FLRA continues to intervene in disputes, facilitate partnerships, and address the legal issues related to government-wide reinvention, one of our primary goals is to encourage an even greater reliance on alternative dispute resolution to increase the early and efficient solution to problems.

Our fiscal year 1998 appropriations request reflects our efforts to become more efficient through resource reallocation. While we are requesting the same number of FTE's, 216, we have reallocated staff from the Authority component to the Office of General Counsel to allow the agency to process cases in the most effective fashion.

The FLRA's dedication to strengthening the quality of services through greater agency-wide coordination is illustrated by the agency's draft strategic plan, which we developed in February of 1996, almost two years before such a plan is required by the Government Performance and Results Act (GPRA). Even without the strictures of GPRA, I believe that strategic planning is vital to a well-run agency. It forces all employees to focus on the agency's mission and accomplish its goals. The FLRA's strategic planning initiative establishes agency-wide goals and, importantly, lays out performance indicators which will allow us to measure our progress. I am proud to say that OMB has used the FLRA's draft strategic plan as a model for other small agencies. Next month, we will be reviewing our experience under our draft strategic plan and reviewing the performance measures, not simply to assess whether the agency accomplished its goals over the past year, but also to determine that we are using the best available outcome-based measurements. We look forward to consulting with Congress, as required by GPRA, before finalizing our strategic plan.

To guarantee that individual employee performance is tied to the agency's strategic planning, we also developed, in partnership with our employees, a new agency-wide Performance Management Plan, which ties each employee's performance to the agency's overall goals in concrete, measurable fashion. The Performance Management Plan went into effect in August of 1996, which puts us half-way through the first year of implementation. All of our staff received training about the plan, to ensure that our employees know what is expected of them. Our supervisors have received additional training to increase their skills in providing feedback to their staff during the mid-year reviews and address any performance problems which may surface during the year. We view this year as the first phase of our effort to truly integrate individual performance into our strategic planning.

Finally, we are also increasing staff productivity and ensuring greater agency-wide coordination through improved technology. All of our Regional Offices are now fully integrated into the agency's micro-computer network, which will allow all staff to access Authority decisions and other research tools. We are also in the second phase of up-grading our case tracking system, which will help us measure our performance against the agency's strategic plan.

Agency-wide, the FLRA and each of its components have accomplished much this past year. I believe we are on the right path and we look forward to having our customers, and most importantly the American taxpayer, reap the benefits as we continue.

I would now like to turn to what each of our components has done to move itself down this road. Let me begin with the Authority, and then give the General Counsel and the Chair of the Panel an opportunity to present their statements.

III. THE AUTHORITY

As I mentioned earlier, the Authority encompasses the three-Member adjudicatory entity, as well as the management and administration of the entire agency. The fiscal year 1998 appropriations request for the Authority totals $11,245,000 and 90 FTE's. The activities of all the program and administrative offices within the Authority are described in detail in our Budget submission. I would like to focus here on the unit comprised of the Offices of the three-Member Authority.

While the accurate forecasting of the Authority's caseload is difficult since the cases are initiated by the parties, based on recent and historical trends, we expect our caseload in fiscal year 1998 to remain approximately the same as the actual fiscal year 1996 level, i.e. roughly 550 cases. Our appropriations request reflects this expectation. In fiscal year 1996, the Authority closed 271 cases, a 38 percent increase over the number closed in fiscal year 1995. The Authority expects to continue increasing our productivity, which will allow us to continue to reduce our caseload inventory.

However, I would like to point out that our caseload is not a complete reflection of our total workload. Our ADR efforts, for example, are not captured in caseload statistics. Revisiting and revising agency regulations require significant staff time to complete. The changes in our representation regulations also affect our caseload statistics. For example, the new representation regulations will mean that we will receive one consolidated representation petition, which in the past would have been filed as several different petitions. While this consolidated petition is likely to be more complex than one of the prior fragmented petitions, it enables a more expeditious, efficient and integrated resolution of the representation questions presented. This illustrates the reality that each case is not equivalent. Some cases present complex and novel questions of law. Others simply require the Authority to apply settled doctrine to resolve a dispute. Therefore, while our caseload is one performance measure, it should not be the only method used to judge our overall workload.

To increase the timeliness and quality of our decisions, we are developing new approaches to deciding cases filed with the Authority. Our goal is to maximize the clarity and stability of the law governing Federal sector labor-management relations, so that the parties will better understand and be guided by their respective rights and obligations. Our primary focus is concentrated on cases where the law is unsettled. We are working to produce decisions that are clearly articulated to guide the parties in the future and are soundly reasoned to withstand judicial review. Our aim is to create doctrine that emphasizes the responsibilities of the parties to each other.

To ensure that our decisions are informed by a thorough understanding of some of the most complicated issues we are facing, we have broadly sought the views of interested and affected parties through amicus briefs in cases involving pivotal issues of government-wide concern, and initiated face-to-face meetings between Authority staff and parties in an attempt to clarify the issues that need to be decided, and here again, encouraged parties to find a negotiated resolution of their dispute.

IV. CONCLUSION

Our direct customers are continuing to struggle with the issues raised by budget reductions and agency downsizing. Effective labor-management relations are essential if, as Congress has encouraged, agencies, unions and the employees they represent are to contribute to the efficient operations of government. The FLRA is committed to providing the leadership necessary during these crucial times by promoting sound Federal labor-management relations. I believe that our fiscal year 1998 budget request will enable the FLRA to perform this necessary leadership role and provide an effective labor relations program that meets the needs of our customers and the public they serve.

PREPARED STATEMENT OF BETTY BOLDEN, CHAIR, FEDERAL SERVICES IMPASSES PANEL

I. INTRODUCTION

Mr. Chairman and distinguished Members of the Committee: I am pleased to have the opportunity to submit written testimony on behalf of the Federal Service Impasses Panel (the Panel) in support of the FLRA's fiscal year 1998 appropriations request. As noted by Chair Phyllis Segal in her testimony, the Panel resolves impasses between Federal agencies and unions representing Federal employees arising from negotiations over conditions of employment under the Federal Sector Labor-

Management Relations Statute (the Statute) and the Federal Employees Flexible and Compressed Work Schedules Act (the Act). In its statutory role, the Panel is often referred to as the last step in Federal sector collective bargaining—the substitute for the strike and the lockout in the private sector.

The Panel consists of seven Presidential appointees who serve on a part-time basis, and are supported by a small full-time staff. The Statute requires that Panel Members be appointed "solely on the basis of fitness to perform the duties and functions involved, from among individuals who are familiar with Government operations and knowledgeable in labor-management relations." Since my initial appointment as the Panel's Chair in October 1994, I have been fortunate to serve with colleagues who, in both background and temperament, are particularly well-suited to meet the challenges of Federal sector dispute resolution as they exist at the present time. The other Members of the Panel are Gilbert Carrillo, from Davie, Florida; Bonnie Prouty-Castrey, from Huntington Beach, California; Stanley M. Fisher, from Shaker Heights, Ohio; Dolly M. Gee, from Pasadena, California; Edward F. Hartfield, from St. Clair Shores, Michigan; and Mary E. Jacksteit, from Takoma Park, Maryland.

II. PAST HIGHLIGHTS

Since its inception in 1970, the Panel has been committed to assisting parties in the voluntary resolution of their bargaining impasses. Implicit in its guiding philosophy is the recognition that a solution to practical workplace problems fashioned from within a relationship is far more preferable than a solution imposed by third parties. For this reason, the Panel has been highly supportive of the recent emphasis on interest-based bargaining and collaborative approaches to problem solving. Fostering a climate where collaboration can thrive is particularly important in the current environment of downsizing and streamlining, where the joint development of successful strategies for meeting the challenges facing agencies and employees are critical for survival.

Some recent statistics from fiscal year 1996 and 1997 illustrate the Panel's emphasis on voluntary resolution. In fiscal year 1996, the Panel closed 156 cases. Of these, it was successful in obtaining voluntary settlements in 37 cases through prompt, personal interventions by Panel Members and staff. Through the first half of this fiscal year, of the 74 cases closed by the Panel, 22 resulted from voluntary settlements. Moreover, even where complete settlements are not attained, the use of alternative dispute resolution techniques in face-to-face interventions often can lead to significant reductions in the areas over which the parties disagree, and to a much better understanding by the Panel of the merits of the parties' positions.

It has been the Panel's consistent experience that voluntary settlements are most likely to occur when the parties are provided with face-to-face assistance, either at the Panel's offices or at the site of the dispute. In some cases, the nature of the dispute makes it imperative that the Panel visit the worksite. Face-to-face assistance was provided in 37 cases in fiscal year 1996, and the Panel continues to provide such assistance in this fiscal year. While the Panel continues to supplement face-to-face assistance through informal telephone conferences, the Panel cannot be effective in achieving the voluntary resolution of disputes unless it can expend the necessary resources to cover salary and travel costs.

While the Panel has had considerable success in promoting cooperative, interest-based problem solving, in some cases face-to-face assistance is either inappropriate or unavailing. In such circumstances, consistent with its statutory mandate, the Panel must impose settlement terms through a written decision. Written final actions issued by the Panel are made on a case-by-case basis after a thorough examination of the evidence and arguments presented. Although they set no precedents in the legal sense for future cases on similar issues, they provide valuable guidance to Federal sector labor relations practitioners, and can be crucial in avoiding subsequent impasses. Thus, given their significance to the particular parties to the dispute, as well as to the entire professional community, they must be carefully crafted and include clear and convincing rationale. During fiscal year 1996, 33 cases were resolved through written final actions, 18 through the issuance of Decisions and Orders of the Panel, and an additional 15 through Arbitrators' Opinions and Decisions, normally by one of the Panel Members.

III. APPROPRIATIONS REQUEST AND WORKLOAD

The fiscal year 1998 appropriations request for the Panel totals $877,000 and 9 FTE's (with the seven part-time Presidential appointees comprising 1 FTE). Accurate forecasting of the Panel's caseload is difficult since the cases are initiated by the parties. From fiscal year 1991, when the Panel received a record 293 requests

for assistance, through fiscal year 1996, when 163 requests were filed, caseload has declined steadily. During this same time, in response to the initiatives of the President and Congress to shrink the Federal work force, the Panel's level of FTE's was reduced from 11 in fiscal year 1993, to its current level of 9.

While there are no formal studies to confirm the reasons for the decline in the Panel's caseload, we believe the two factors which have contributed the most are: (1) the development of labor-management partnerships in the Federal sector as a result of the issuance of Executive Order 12871 on October 1, 1993; and (2) a decision by the FLRA in 1993 which excluded from further negotiations matters already covered by existing agreements. As to the first factor, the emphasis on labor-management partnerships has increasingly moved the parties away from the traditional adversarial approach and toward collaborative approaches where they resolve more issues themselves, without Panel or other third-party intervention. With respect to the second factor, the exclusion from further negotiations of matters covered by existing agreements is focusing the parties' attentions on end-of-term negotiations, resulting in a decrease in the Panel's traditionally high percentage of impact-and-implementation impasses.

However, like the rest of the agency, the Panel's caseload does not completely capture our workload. The decline in the Panel's caseload from fiscal year 1991 to fiscal year 1996 was offset by increases in the difficulty of the filed cases. The era of labor-management partnerships ushered in by Executive Order 12871, and the increase in the number of cases involving end-of-term negotiations has significantly altered the character of the disputes the Panel now must deal with. For example, the Panel is increasingly helping parties resolve issues relating to interest-based bargaining and so-called "(b)(1)" matters. These Panel efforts are often labor-intensive requiring increased assistance, particularly during the initial investigation stage of the dispute. Moreover, the parties often conclude that the complex problems associated with continuing Government downsizing and streamlining are not amenable to resolution through partnership and interest-based bargaining. Disputes over these, their most difficult issues, are then reserved for traditional bargaining, and eventually come before the Panel for final resolution. Similarly, the parties' increased focus on end-of-term negotiations often results in massive, multi-issue impasses which require significant expenditures of the Panel's time and resources.

IV. FUTURE GOALS AND OBJECTIVES

Without repeating Chair Segal's description of the FLRA's strategic planning efforts which integrate the various activities of the FLRA's components into one agency in philosophy and practice, over the past year the Panel has established specific objectives for improving the timeliness and quality of service, for effectively using and promoting alternative methods of dispute avoidance and resolution to reduce the costs of conflict, and for developing and maintaining a highly efficient organization with the flexibility to meet program needs.

For example, in the area of timeliness, we have set quantitative standards for case processing for fiscal year 1997 based on current baselines. In pursuit of the objective of improving the quality of our dispute resolution services, we have established quality standards for the most important written documents produced by the Panel's staff. As part of the FLRA-wide strategic planning initiative, the Panel has established objectives, developed performance indicators, and is attempting to measure its performance against those indicators to ensure that the Panel performs its mission in an efficient and effective manner.

The Panel's future goals are directly related to what experience has shown maximizes the Panel's ability to excel in performing its mission of dispute resolution. To summarize, the Panel is striving to: (1) investigate promptly and with the highest possible quality of service all requests for assistance involving negotiation impasses in the Federal sector, either by telephone or through a face-to-face meeting with the parties, depending upon which method is most appropriate given the location of the parties; (2) assist the parties in reaching a voluntary settlement of their dispute by using appropriate mediation and alternative dispute resolution techniques designed to address their stated interests, and to encourage such voluntary settlements at any stage of the Panel's processes; (3) make timely procedural determinations regarding whether the Panel should assert jurisdiction in a given request for assistance and, if so, to select the dispute resolution procedure designed with the specific intent of moving the parties toward accommodation; (4) impose terms that resolve the dispute as promptly and equitably as possible through written decisions which clearly articulate the rationale providing the basis for the Panel's decision in cases where the Panel's and the parties' best efforts fail to obtain a voluntary settlement; (5) serve as a resource to Federal sector employees, their unions, and management

representatives to improve their knowledge and understanding of the purposes, policies, rights, and responsibilities under the Statute and Executive Order 12871; (6) make the Panel's case handling processes easier to understand, easier to use, and more responsive to the needs of the parties; (7) improve the parties' relationships by working collaboratively with the other components within the FLRA to provide quality and effective training programs designed to educate labor and management on the benefits of resolving disputes without having terms imposed by a third party; and (8) manage effectively the resources of the Panel by ensuring that the parties uniformly receive the highest quality of service from its representatives in the most expeditious, courteous, and effective manner possible.

V. CUSTOMER-ORIENTED INITIATIVES, TRAINING, AND OTHER ACTIVITIES

In addition to the Panel's participation in the FLRA's strategic planning initiatives, during my tenure as Chair, the Panel has continually engaged in efforts to improve the quality of its service. In this regard, Panel Members and staff met directly with customers in Houston, Texas, in May 1995, in Chicago, Illinois, in July 1995, and in Boston, Massachusetts, in May 1996, to receive valuable suggestions regarding where improvements could be made. We held another round-table discussion with our customers in San Francisco on June 9, 1997.

In addition, in September 1995, the Panel sent out customer surveys to all union and management representatives who requested its assistance in fiscal year 1994 and 1995, the first in its 26-year history. The survey effort culminated in the issuance of a report which summarized its most important findings and listed a number of action items to improve the quality and timeliness of the Panel's services consistent with the needs expressed by its customers. Among the initiatives launched as a result of this report was a new expedited arbitration procedure intended to provide the parties with resolution of selected, time-sensitive disputes within 48 hours of the close of the arbitration hearing. In conjunction with the survey and report, the Panel also completed the first thorough review of its rules and regulations since the passage of the Civil Service Reform Act of 1978. The Panel published revised regulations which became effective on August 18, 1996, aimed at making the regulations more user-friendly by, among other things, providing easier access to the Panel's services through the use of facsimile filings of requests for assistance.

In addition to ensuring the Panel's continued effectiveness in performing its traditional role as the last step in the collective-bargaining process, the Panel has in the past, and will continue in the future, to collaborate with FLRA staff members in providing interest-based bargaining training to parties in pending Panel cases, and providing Panel and staff members for participation in conferences and union-and management-sponsored training sessions. These efforts reflect the Panel's commitment, in conjunction with the other components of the FLRA, to provide leadership within the rapidly changing Federal sector environment, and to incorporate effectively the concepts of labor-management cooperation and interest-based bargaining into the Panel's mission of Federal sector dispute resolution. To ensure they are able to meet the challenges of this new era in labor-management relations, it is important to provide adequate and appropriate training and developmental opportunities to its professional and administrative support staff. To this end, as part of the FLRA's strategic planning initiatives, the Panel has established individual development plans for staff members reflecting its immediate and long-term training requirements. Along with the rest of the FLRA, it is also developing performance management measures to ensure that the training it provides results in enhanced performance of the Panel's mission.

VII. CONCLUSION

As long as collective bargaining in the civil service is deemed to be in the public interest, and Federal employees are denied the right to strike, some mechanism for the resolution of bargaining impasses will always be required. The Panel, and the FLRA as a whole, have worked diligently to improve the efficiency and effectiveness of its staff. The "multiplier effect," the impact that a reduction to FLRA's budget would have on other agency's budgets, should not be ignored. Every dispute that we resolve quickly, or better yet, prevent from requiring a final Panel decision saves money for the agencies and employees involved.

PREPARED STATEMENT OF JOSEPH SWERDZEWSKI, GENERAL COUNSEL

I. INTRODUCTION

Mr. Chairman and distinguished Members of the Committee: It is my pleasure to present testimony on behalf of the Office of General Counsel of the Federal Labor Relations Authority (FLRA) in support of the FLRA's appropriations request. My remarks will summarize for the Subcommittee our accomplishments during the past year, and the progress we have made toward improving the quality, responsiveness and cost effectiveness of the services we provide to management and labor.

II. THE OFFICE OF GENERAL COUNSEL

As noted by Chair Phyllis Segal in her testimony, the FLRA's Office of General Counsel (OGC) is the investigative and prosecutorial component of the FLRA. The General Counsel, who is appointed by the President with the advice and consent of the Senate, has authority to: (1) investigate, settle and prosecute all allegations of unfair labor practice charges filed with the FLRA; (2) review all appeals of a regional director's decision not to issue a complaint; (3) establish policies and procedures for processing unfair labor practice charges, including the active encouragement of dispute resolutions; and (4) manage, direct, and supervise all employees in the OGC in the performance of their delegated responsibility to process representation petitions and supervise elections. The fiscal year 1998 appropriations request for the OGC component of the FLRA total is $9,936,000 and 117 FTE's.

III. ACCOMPLISHMENTS AND INITIATIVES

The Office of General Counsel over the past three years has managed its operations in accordance with its strategic planning initiative begun in 1995. This plan sets forth a strategy for reducing the cost of conflict in the Federal Sector labor relations program by improving our processes for the administration of the Statute, developing innovative approaches to resolving disputes and improving the relationships between labor and management in the Federal sector. The OGC strategic plan correlates with the agency-wide FLRA strategic planning initiative, which as Chair Segal mentioned, will be discussed with Congress before it is finalized, as is required by the Government Performance and Results Act.

The first goal of our Strategic Planning initiative has been to improve the OGC's administration of the Statute. One objective to reach this goal has been to improve the timeliness of processing of unfair labor practice and representation cases in order to be current in the processing of our caseload. In fiscal year 1996 our goal was to reduce the number of ULP cases over 180 days old to a total of 70 cases nationwide by the end of the fiscal year. (This objective was a 75 percent reduction of cases over 180 days old in the OGC's inventory). The OGC exceeded this goal by reducing ULP cases over 180 days to 62. This objective was recently updated to no more than 210 cases over 90 days old by the end of June 1997. If achieved, the OGC will have accomplished a 75 percent reduction in the number of cases over 90 days old in its inventory (from over 1000 cases over 90 days old to 210 cases). As of the presentation of this testimony, we are on target to successfully attain this goal of becoming current in our case processing.

For the first time in many years the OGC is within striking distance of being current in our ULP case processing because of our success in reducing conflict between labor and management in the Federal sector. For the second straight fiscal year unfair labor practice case filings have remained at approximately 30 percent below the level of filings in fiscal year 1995. We believe the significant reduction and maintenance of the reduction has been in large part as a result of the implementation of our Facilitation, Intervention, Training and Education (FITE) program.

FITE exists under the umbrella of the Collaborative Dispute Resolution (CADR) a cross-component dispute resolution program. This program is aimed at developing alternative approaches to resolving disputes and working with the parties to improve their relationships in order to prevent unnecessary conflict in the future. Instead of solely using resources to investigate and prosecute individual unfair labor practice charges, we have developed this initiative to enable us to work with the parties in a problem solving environment, as opposed to the stereotypical labor-management adversarial environment. Over the past two years we have initiated and accomplished approximately 300 FITE programs per year. The investment of our resources in this area has paid off in the significant reduction in case filings in both ULP and representation cases. A survey of labor and management who used our FITE services was conducted in February 1995. This survey indicated that these programs are very useful and efficient in reducing unfair labor practice activity at their facilities. A follow-up to this survey is planned in early fiscal year 1998.

Over the past 3 years we have shifted a portion of our resources from enforcement of the parties' rights and responsibilities to the prevention of disputes and improvement of the parties' relationships. We are best able to assist both labor and management meet the challenges of government downsizing and reorganization by working with them to solve the disputes in a problem solving environment rather than through time consuming and expensive, and sometimes what may turn out to be pointless, litigation. Working with the parties to develop collaborative and non-adversarial relationships requires more than a single input into their relationship. It requires a wide variety of programs to assist them in improving their relationship, developing new approaches to collective bargaining and assisting them to understand their rights and obligations under the Statute. Although our caseload has gone down from a statistical point of view, our workload has not diminished because more of our resources have been diverted to the prevention of disputes rather than litigation to resolve disputes.

The OGC has continued to provide significant services to those parties who have agreed to jointly develop a collaborative relationship under Executive Order 12871. As result, labor-management partnerships now exist in various forms throughout the Federal government. As part of these processes, we have assisted the parties in developing new approaches to resolving issues without resorting to litigation and in developing various methods of alternative dispute resolution.

A second major goal of our strategic planning initiative has been to develop innovative approaches to resolving disputes in the Federal sector. In 1995 we began to work with facilities who filed a large number of cases. By using newly developed intervention techniques designed to improve the parties' relationships, we have been able to reduce the level of conflict at these facilities. As a result of our success in using these programs, we have increased our emphasis by targeting new facilities for future intervention and have lowered our threshold for facilities targeted for assistance from 100 cases filed in a 12 month period to 30 cases. We have found that high filers tend to come from the same facilities year after year. If we can be successful each year at a number of these facilities, we will hopefully be able to manage our ULP caseload more efficiently and effectively. As noted above, our strategy is to push very hard this year to become current in case processing so that we can use these new approaches in working with high filers closer to the time disputes arise and thereby reduce the costs to both labor and management of resolving these disputes, as well as hopefully preventing future ones.

In furtherance of our goal to improve our administration of the Statute, the OGC has issued a number of new policies. We have continued to operate under our Prosecutorial Discretion policy issued three years ago. This policy sets forth criteria for the dismissal of what would otherwise be meritorious charges because they are technical violations of the Statute which do not otherwise further the purposes and policies of the Statue. Over the past three years approximately 80 charges a year, which otherwise would have been litigated, have been dismissed. Our Settlement policy places greater responsibility on the parties to settle their own disputes by crafting solution responsive the particular needs of the parties. This policy has given OGC regional directors more discretion to approve settlements which to do not fit the traditional settlement mold. We have seen significant improvements in the number, quality and creativeness of the settlements since the implementation of this policy as well as a significant decrease in the number of complaints, which is the first phase of the litigation process.

The OGC has also issued a policy on the scope of investigations which explains the various investigative techniques that may be used and gives discretion to the regional office to stop needless investigation when the charge clearly has no merit. The techniques used to investigate will vary based on the nature of the issues in the unfair labor practice charges. In order to be most effective, the technique used must fit the charges, rather than one technique for all charges. This policy is aimed at reducing the cost and time consuming nature of an investigation by using the best technique to investigate a charge. It also stops an investigation when further investigation would not be probative. All charges deserve a high quality investigation, but all charges do not need the same type of investigation. With this in mind, the OGC has established a Quality policy which sets forth quality standards for the processing of unfair labor practice charges and a separate quality policy for representation cases.

As a method of determining whether these quality standards are being met, the OGC has developed a new Appeals Policy. This new policy establishes quality review and not just legal review as requirements for each appeal filed with the OGC. Furthermore each of the OGC's regional offices, as part of their regional strategic plans have adopted regional quality review processes to ensure theses standards are met.

The OGC has issued a number of guidance memoranda on various Federal sector labor relations subjects. I have begun this practice as a means of educating the parties on the current state of the law, giving them an understanding of how the OGC will interpret, and therefore enforce, the law and provide them an opportunity to gain a better understanding of the processes of the Statute. The OGC has received an average of 300 requests from throughout the Federal sector for the guidance memoranda and the policy issuances. We will continue to issue labor relations guidance in order to provide clarity and understanding of the Statute and the OGC's processes.

The FLRA recently issued new representation case regulations which greatly changed the OGC's processes for the handling of representation cases. The new regulations provide much greater flexibility in using problem solving approaches to assist the parties with the wide spread reorganization of government agencies which is going on today. In the past, representation cases required adherence to arcane and very rigid rules and processes to resolve issues of the status of bargaining units. The resolution of disputes concerning representation matters frequently required litigation which in many cases became very drawn out and expensive. Using the new processes we have developed under the regulations, the OGC has been able to further expand its very vital assistance to agencies and unions undergoing a reorganization.

For example, the OGC just completed assisting the Department of Health and Human Services and its unions to dramatically reorganize the structure of the bargaining units in HHS to provide a significantly more efficient system for dealing with labor-management negotiations and the changes which resulted from a massive internal reorganization of HHS. The methods we used are estimated to have saved over $300,000 in litigation costs alone, and the entire process from initial meeting to final decision took a little over four months. In fact, no litigation was required because the parties entered into stipulations which resolved all outstanding issues. Although we cannot provide a precise calculation of the savings to the government by the efficiency brought about by the new approach to bargaining unit structure put in place through our assistance, such a reorganization as large and complex as this one which affected all employees of the Department and all divisions would have required numerous hearings and, in the past, would have taken close to three years to accomplish. Furthermore, it is doubtful in an adversarial environment whether the reorganization could have been completed as successfully to fulfill the needs of the parties and consistent with the requirements of the Statute.

Similarly, we have assisted reorganization activity in a number of large components in the Departments of Defense and Agriculture. By using these new approaches the number of cases have declined and the costs to the parties and taxpayers have likewise declined significantly. However, as I mention with respect to unfair labor practice cases, while our representation caseload has declined, our workload has not. In fact, the services rendered by the OGC are in greater demand than ever in order to assist the parties in working collaboratively through the myriad of issues associated with governmental reorganization. With the forecasts of significant future reorganizations, this workload could significantly increase beyond our caseload forecasts. However, if we can continue to build on our successful approaches to dealing with these reorganizations, there will not be a concomitant increase in cases and the costs associated with them.

This illustrates what we have called the "multiplier effect." FLRA's efforts and resources have a direct impact on the resources of other agencies. Without our assistance, HHS, DOD or Agriculture would have spent far more staff time and, therefore, money on their reorganizations.

We have been successful at reducing the cost of conflict in the Federal sector labor relations program and assisting in the successful reorganization, and therefore greater efficiency of government departments and agencies. We have set new goals in order to be able to obtain even greater savings for the government in the future. We intend on continuing to multiply the taxpayers investment in the OGC by continually seeking to improve our processes and to be responsive to needs of our customers.

GENERAL SERVICES ADMINISTRATION

PREPARED STATEMENT OF DAVID J. BARRAM, ADMINISTRATOR

Mr. Chairman and Members of the Committee: I am Dave Barram, and I am pleased to provide a statement for the record that discusses the General Services Administration (GSA) and its budget request for fiscal year 1998.

Last year, I promised Congress that the agency would be bold and begin to address fundamental and paradigm-shifting approaches to accomplishing its dual policy and operational roles within the Federal community. We are doing this, and it shows.

When I tell people about change at GSA, they sometimes give me a strange look, perhaps thinking that "this poor guy from California believes that a 50 year old agency will really change." Well, this is cynical and very unfair, because we are on a mission: a mission to show that we can be the best in every area in which we operate. I think three impulses drive us toward change.

First, we believe the customer is king. We're learning what that really means. We thrill our customers with GSA Advantage!, with less than 2 cents a network minute for long distance on-net telephone service, and with class A space at good rates. We're getting praise for fixing mistakes, for making vendors provide our customers what they agreed to, and for explaining our products. Our Office of Governmentwide Policy will also thrill customers by developing enlightened policies in new collaborative ways.

Second, GSA employees are taking more direct responsibility for their work, for their organization, and for the skills they need to flourish. When we decided Can't Beat GSA Leasing and Can't beat GSA Space Alterations made a lot of sense, GSA employees did it; we didn't go out and hire a bunch of high-priced consultants. Both programs re-engineer processes to achieve efficiencies and economies, while giving customers added options to meet their requirements in these areas. And, on behalf of the Vice President, I just announced the new Access America Plan that will give customers the ability to get services from the Government electronically; our Office of Governmentwide Policy is heavily involved in this initiative, and GSA is well positioned to make the Access America vision of electronic government a reality.

Third, where we work and how we work is changing, and the availability of technology will drive that change. The "office" we are used to will be different; workers will share space, have more than one "location," and have to be accessible wherever they are. We plan to be in front of that wave, to provide the workplace of the future. We are not just in the buildings, supply, or telecommunications business; we are in the business of providing Federal employees with great work environments that are effective, innovative, productive, and that anticipate the workplace of the future.

PERSPECTIVES

These impulses drive us and form our framework for action. Before moving on to specifics of the fiscal year 1998 budget, I would like to put some of GSA's programs and accomplishments into this framework, and provide an overall perspective that the Committee may find helpful.

Measured in obligations, our fiscal year 1998 program will be slightly over $13.3 billion, much of which is in the form of funded requests from other agencies. This continued growth over the years reflects customer satisfaction and confidence, an outcome of successfully implementing initiatives to make GSA the most competitive and cost effective source for goods and services within the Federal community.

At the same time, budgeted employment of 14,403 full-time equivalents (FTE's) will be at a record low, down almost 29 percent since fiscal year 1993. This is also over 24,000 FTE below our peak work force of the early 1970's, and 9,500 FTE below employment in 1950, our first year of operation. We are doing more with less, and we are doing it well.

Most GSA spending winds up in the private sector in some fashion. Of $13.3 billion in expected fiscal year 1998 obligations under our own accounts, only $919 million, less than 7 percent, is for personnel salaries and benefits. The balance represents orders that will be placed with commercial vendors, directly or through revolving funds, for goods and services.

In total, GSA's programs will influence over $43 billion in Government financial transactions in the budget year. As one example, the agency will set in place contracts that other Federal agencies will directly use for an estimated $14 billion in procurements. These provide goods and services at significant cost savings due to GSA's leverage as a central purchasing agent, shown in a number of fiscal year 1996 accomplishments:

—GSA's contract for the IMPAC/VISA Government purchase card saved $394M, and refunded $1.6M to the Government.

—GSA's contract with American Express for the travel charge card generated $18M in refunds.

—We obtained unrestricted airfares at about 56 percent off normal coach fare on 5,152 airline routes, and saved $1.5 billion. Savings of $2.4 billion are projected for fiscal year 1997.

—The agency brought its lowest long-distance telephone rates down 35 percent, and saved more than $200M a year.
—Almost $205M was saved on the purchase of office supplies.
—GSA provided fleet automobiles for 20 percent less than commercial rates, saving $51M.
—Small package overnight delivery was provided for one-third below commercial rates, saving $40M.
—GSA also negotiated prices for shipping freight and relocating employee household goods that saved $95M and $74M, respectively.

As previously noted, we have accomplished a significant employment downsizing since fiscal year 1993—over 5,800 FTE, or nearly 29 percent. This streamlining has been accomplished entirely without reductions in force or other adverse actions. Some has resulted from managed attrition, augmented by 4,270 buyouts planned for the fiscal year 1994–1997 period.

In its operations, GSA has been rapidly moving from being a mandatory source to being a provider of choice, and is now effectively competing for customer purchases of supplies, fleet services, information technology services and, increasingly, real property services. For example, GSA's Public Buildings Service is finding new ways to become more competitive and customer-focused. Its Can't Beat GSA Leasing and Can't Beat GSA Space Alterations initiatives are reducing delivery times and enhancing cost effectiveness by cutting cumbersome procedures and offering greater competition and choice to Federal agencies.

—Only fully underway for a short time, Can't Beat GSA Leasing is already demonstrating efficiencies, and potential savings are estimated at tens of millions annually.
—Can't Beat GSA Space Alterations is targeted to take up to 60 percent off of traditional delivery schedules, reduce administrative costs, and put vacant Government building space back into revenue-generating operation faster.

Our programs often involve meeting broad societal goals and improving the quality of life for Federal employees.

—GSA is a leader in family-friendly workplaces. We opened 3 new child care centers in fiscal year 1996, bringing the total to 105 GSA-managed centers in Federal buildings, serving more than 6,500 children. We also established 15 telecommuting centers nationwide, used by 40 Federal agencies, to make it easier for Federal employees to do their work.
—Last year, GSA launched its Good Neighbor program, a public/private partnership with communities that enhances local efforts aimed at maintaining the vitality of American cities. The program supports the Clinton Administration's urban agenda by using GSA's authorities in real and personal property to revitalize downtowns and local communities across the country.
—Under the Administration's Computers to Schools initiative, GSA donates its surplus computer equipment to schools and non-profit organizations, including community-based educational organizations. Particular preference is given to these entities in Federal enterprise communities and empowerment zones.
—GSA celebrated a record-breaking year in contracting with small, minority, and women-owned businesses.
—GSA manages the Federal Government's recycling program, which recycled 40,000 tons of recyclable material in fiscal year 1996. Besides saving trees, reducing waste, and avoiding pollution, the program earned more than $500,000 from the sale of recovered materials, which, under legal authority, was returned to agencies to use for authorized purposes.
—The Clean Air Act Amendments of 1990 require reduction in the production of ozone-depleting chemicals. GSA funds projects to replace or retrofit air-conditioning equipment that uses CFC's.
—Under the Interagency Fleet Management Program, an increasing percentage of GSA's motor vehicle inventory is being replaced annually with alternative fuel vehicles, in accordance with Executive Order 13031.
—Energy conservation laws and associated Executive Orders require all Federal agencies to reduce overall energy use by 20 percent from 1985 levels by fiscal year 2000. At present, we are on target to meet the goals and, in fiscal year 1996, captured nine Federal energy and water conservation awards presented by the Federal Interagency Energy Policy Committee and the Department of Energy.

THE FISCAL YEAR 1998 BUDGET REQUEST

In total, we are asking the Committee to provide GSA with $224.6 million in appropriations and $5 billion in Federal Buildings Fund (FBF) new obligational au-

thority (NOA) for fiscal year 1998. This is summarized and compared with Committee action in prior years in the table, below.

Operating appropriations are a relatively small but important part of our program, supporting the Office of Governmentwide Policy, the Office of Inspector General, and a few remaining operating programs. The total request of $140.6 million is $19.2 million, slightly over 12 percent, below enacted levels for fiscal year 1997. This is basically attributable to the transfer of certain functions to reimbursable financing and termination of one-time fiscal year 1997 efforts.

THE FISCAL YEAR 1998 BUDGET IN SUMMARY

[In millions of dollars]

	Fiscal years—		
	1996 actual	1997 current	1998 request
Operating appropriations:			
Salaries & Expenses, Policy & Operations	119.214	118.173	104.487
Office of Inspector General	33.274	33.863	33.870
Allowances, former Presidents	2.181	2.180	2.250
Expenses, Presidential transition	.....	5.600	.....
Subtotal budget authority/appropriation	154.669	$159.816	$140.607
Federal buildings fund new obligational authority:			
Construction & acquisition of facilities	545.002	758.711	.....
Repairs and alterations	659.250	639.000	434.000
Installment acquisition payments	163.663	173.075	142.542
Rental of space	2,402.337	2,395.228	2,275.340
Building operations	1,344.551	1,544.651	1,331.789
Authority for prior-year projects/activities[1]	(−296.943)	(−383.600)	680.543
Subtotal FBF New obligational authority	5,114.803	5,510.665	4,864.214
Subtotal FBF budget authority	67.692	392.544	84.000
Subtotal FBF appropriations	86.000	400.544	84.000
Total, TPO action (BA and NOA)	5,269.472	5,670.481	5,004.821
Budget authority	222.361	552.360	224.607
Appropriations	240.669	560.360	224.607

[1] Non-add entries in fiscal year 1996 and 1997 reflect approved program that cannot be accomplished due to Rent shortfall.

There are several points that I want to highlight concerning the fiscal year 1998 FBF real property program. First, we are requesting no new construction projects, and only one major repair project. The latter is $84 million for the third and final phase of the Interstate Commerce Commission/Connecting Wing/Customs renovation project. In the interim, GSA will continue to be very much involved in construction and major repair efforts, given that up to $1.2 billion in previously-authorized projects remains available for design and/or construction award in fiscal years 1997 and 1998.

Second, the budget reflects $681 million in NOA in fiscal year 1998 to fund capital projects previously authorized by Congress. This Committee provided for these projects in appropriations acts based on GSA estimates of Rent income that GSA later determined were too high by $681 million. The adjustments to our revenues have resulted from a combination of several factors, including a market-driven reduction in the Rent that we charge occupying Federal agencies that we failed to fully account for in our estimates, overly optimistic assumptions on when new space would enter our inventory, and generally underestimating the effects of Federal downsizing. We have continued to review anticipated net revenues and, as explained in the attached letter from Public Buildings Service Commissioner Robert Peck, we expect that net revenue will be further adjusted downward from the budget esti-

mate by $79 million in fiscal year 1997 and $132 million in fiscal year 1998. Corrective measures have been taken to ensure that obligations do not exceed income through fiscal year 1997, and we are working to refine the process to avoid errors in anticipated income of this magnitude in the future.

Third, the budget program for Rental of Space and Building Operations activities anticipates a net reduction of over $100 million based on estimated savings from Federal downsizing and various cost containment strategies. This will be an impressive and very difficult challenge, but one that I believe we can meet.

Following the tragic Oklahoma City bombing of the Alfred P. Murrah Federal Building, GSA participated in the Vulnerability Assessment Study directed by the President and conducted by the Department of Justice. As a result of the study, GSA requested, and this Committee provided, increased funds in fiscal year 1997 for security enhancements at GSA-controlled facilities nationwide, and we will be adding over 370 police officers and 211 other positions, which will result in over 1,400 security personnel in addition to 3,000 contract guards. While the total for police officers alone will be increased to more than 700, based on recommendations of a staffing study by Booz-Allen, this is not consistent with a "floor" of 1,000 Federal Protective Officers (FPO's) established by a provision in the fiscal year 1989 Appropriations Act, and we are asking for its repeal.

CLOSING

About one-hundred years ago, Elbert Hubbard said, "the world is moving so fast these days, that the man who says something can't be done is generally interrupted by someone else doing it." If the need for adapting and changing was true a hundred years ago, it is even more so today.

We are doing it. We're changing our methods and our culture, and our budget and accomplishments show it.

Our Federal Supply Service keeps innovating and increasing market share. That's a new idea, increasing market share. Other agencies were starting to develop their own contracts. Now, they are abandoning them because we can serve them better.

The Federal Telecommunications Service continues to creatively lead. Nothing is more complex these days than the world of telecommunications. Just over one year ago, the Telecommunications Reform Act of 1996 was enacted, which set in motion dramatic changes in the telecommunications market. We're now in the midst of the acquisition of telecommunications services that will support the Federal community well into the next century.

And, we're doing it in the Public Buildings Service, too. Can't Beat GSA Leasing was a great step. Can't Beat GSA Space Alterations was another one. These initiatives are reducing delivery times and enhancing cost effectiveness by cutting cumbersome procedures and offering greater competition and choice to Federal agencies.

In summary, we are moving forward, and we feel a sense of urgency. The President talks about having less than 1,000 days before the turn of the Century. I would like to see us accomplish our goal of being the best well before the beginning of the next millennium. I know we want to, and I believe we can if we keep our vision as broad as we possibly can. You will be hearing even more GSA success stories when we come before you to discuss the budgets for fiscal years 1999 and 2000.

Mr. Chairman, this concludes my formal statement.

QUESTIONS SUBMITTED BY SENATOR CAMPBELL

Question. What is GSA proposing for the properties acquired from the Pennsylvania Avenue Development Corporation. If disposed of, where will the proceeds for this property be deposited?

Answer. GSA proposes full disposition of all six holdings received from PADC within the next year. The real property assets transferred to GSA consist of two participating interests on sites previously sold, two ground leases, and two undeveloped sites. GSA is currently evaluating issues related to the dispositions for their feasibility and potential for economic return. Developing and implementing the disposition plans will take a minimum of one year. Factors involving approval process, and the real estate market where these properties are located, will also affect the timing of final disposal.

The proceeds from the disposal of any of the properties that GSA acquired from the former Pennsylvania Avenue Development Corporation (PADC) will be deposited into GSA's Pennsylvania Avenue Activities Account.

Question. PBS is marketing a program called "Can't Beat GSA Space Alterations." This program provides customers a choice in performing space alterations of less than $100,000 themselves, or through PBS. Why aren't agencies being given the

same flexibility for more expensive space alterations? The program has been available since the start of the year. How many clients have opted for private sector space alterations contracts?

Answer. GSA has limited its blanket delegation of authority for customers' choice to do their own alterations to the Simplified Acquisition Threshold (currently $100,000) of the Federal Acquisition Streamlining Act of 1994. Below this threshold, customers can use the simplified acquisition procedures authorized by the Act, which cover over 90 percent of all reimbursable alteration projects.

GSA has not made a blanket delegation of authority to customers above the Simplified Acquisition Threshold because we believe it advisable to handle choice over this amount on a case-by-case delegation basis. This is due to more complex procurement requirements above the threshold and the potential adverse impacts of larger scale projects on building systems and other Federal tenants.

We do not yet have measurements on how many customers have opted to alter their space themselves. We expect our first measurements on GSA "market share" in October. Whether or not customers choose to do work in the buildings themselves is still largely driven by who operates the building. It should be noted that GSA has delegated the operation of approximately 20 percent of GSA's occupiable square footage to occupant agencies. If the agency operates the building, alterations are typically done by the agency.

Question. On May 22, 1997, the Department of Energy announced a $5 billion renovation of Federal buildings to cut energy bills by one quarter. According to the Department of Energy all funding will come from private companies. GSA has been engaged in an energy efficiency program since the passage of the Energy Policy Act of 1992. The Act and subsequent Executive Orders require PBS to reduce energy consumption by 30 percent (from the base year 1985) by the year 2005. How will the Energy Department program impact GSA's existing program? According to the Department of Energy, contracts have been awarded for Federal office buildings in Alaska, Arizona, California, Hawaii, Idaho, Nevada, Oregon, and Washington. How will this program impact facilities that GSA has modernized or updated through its Energy Efficiency Program? Please detail prior year spending under the GSA energy efficiency program.

Answer. DOE has developed and awarded an Indefinite Delivery/Indefinite Quantity (IDIQ) Contract in the Western Region of the country for the purpose of allowing Federal agencies to acquire energy efficiency related products and services. Performance-based energy services are available to all Federal agencies with Government-owned facilities in Alaska, Arizona, California, Hawaii, Idaho, Nevada, Oregon, Washington, Hawaii, and the Pacific Trust territories, through delivery orders executed under an IDIQ contract under the Federal Acquisition Regulation (FAR) process. This new Super Energy Savings Performance Contract (ESPC) involves the competitive selection of a small number of contractors (multiple awards).

The Energy Department program will not directly affect the GSA Energy Efficiency Program. The Energy program can be used by GSA as an additional method to obtain products and services to meet the energy reduction goals of the Energy Policy Act of 1992. GSA's modernization or updating program is a different program than the energy efficiency program. The modernization program is a comprehensive reinvestment in a building to replace and improve major operating systems, interior space and finishes, and building features which result in a building with a new expected useful life equal to that of a new building.

In fiscal year 1996, GSA expended $7.4 million on energy savings projects. From fiscal year 1990–1995, GSA spent a total of $145 million on major energy projects.

Question. Please provide a chart showing construction projects in the pipeline. Please indicate the original completion date (and if necessary a revised completion date) for each component site acquisition/design/construction, and the status of the project for all major construction and repair and alteration projects.

Answer. The requested information follows:

IN DESIGN

Project	Description	Design complete		Comments
		Original	Current	
IRS Center, Andover, MA	Facility modernization		3/31/98	
J.C. Cleveland FB, Concord, NH	Facility R&A		2/14/98	
FB-CT, Providence, RI	Facility R&A	4/30/97	4/15/97	
IRS Service Center, Holtsville, NY	Mod.hvac/elec sys, ADA		2/11/98	
PO-CT, New York, NY	Renovation/adaptive reuse		2/18/98	

IN DESIGN—Continued

Project	Description	Design complete		Comments
		Original	Current	
Operations Bldg., Woodlawn, MD	R&A		6/8/98	
J.A. Byrne, Philadelphia, PA	Facade upgrade		10/1/97	
U.S. Courthouse, Erie, PA	New construction	10/30/98	6/1/98	
IRS Service Center, Covington, KY	Renovations		9/20/97	
FB-PO-CT, Raleigh, NC	Renovations	8/20/98	8/20/98	
F.M. Johnson, Jr. FB-CT, Montgomery, AL.	Renovations	8/20/98	8/19/99	
Courthouse, Jacksonville, FL	USCT N/C	8/1/97	9/1/97	
Courthouse, Orlando, FL	New construction	TBD	TBD	Site only.
CDC Env Lab, Chamblee, GA	New construction		8/1/97	
CDC Infectuous Dis Lab, Atlanta, GA	New construction		10/20/97	
Courthouse Annex, Savannah, GA	New construction	12/31/97	12/31/97	
Courthouse, Greeneville, TN	New construction	12/30/97	12/30/97	
Courthouse, Miami, FL	New construction	TBD	TBD	Need House design authorization.
Kluczynski FOB, Chicago, IL	Highrise improvements		7/1/97	
JCK/PO Bldgs, Chicago, IL	Lobby glazing, pl improve		1/11/95	
Kluczyoski FOB, Chicago, IL	Elevator improvements		3/19/96	
H. Washington FOB, Chicago, IL	Plaza imprvts & curtain wall		9/24/97	
H. Washington Center, Chicago, IL	Elev upgrade & misc improve		9/5/97	
H. Washington Center, Chicago, IL	Electrical improvements		8/11/97	
USPO & CT, Cincinnati, OH	Ct Exp & Bldg improvements	12/1/97	12/1/97	
Courthouse, Youngstown, OH	New construction	TBD	TBD	Hold.
FB-CT, Cape Girardeau, MO	New construction	TBD	TBD	Site only.
USBS Admin Bldg, Del Rio, TX	Construct new import lot and docks.		2/25/97	
FB-CT, Laredo, TX	Construct new FB	6/30/98	4/29/98	
Customhouse, New Orleans, LA	Modernization-Audubon		11/1/98	
New FB Complex, Oklahoma City, OK	New construction		2/18/99	
Murrah Garage, Oklahoma City, OK	Repair to Garage/Landscaping		7/30/97	
DFC Bldg 25, Lakewood, CO	Major replacemen/upgrades		4/30/98	
Rogers Court Annex, Denver, CO	New construction	TBD	TBD	
U.S. Border Station, Babb, MT	New construction		4/24/98	
U.S. Border Station, Sweetgrass, MT	New construction		10/30/98	
Moss Court Annex, Salt Lake City, UT	New construction	TBD	TBD	Need House design authorization.
450 Golden Gate FB, San Francisco, CA.	Upgrade urban landscaping		3/31/98	
Appraisers Building, San Francisco, CA.	Tenant realignment		9/17/97	
Old U.S. Mint, San Francisco, CA	Modernization	TBD	TBD	
FB, San Francisco, CA	New Construction	TBD	TBD	
USGS Bldg 1&2, Menlo Park, CA	Modernization		12/17/97	
Courthouse, Fresno, CA	New construction	TBD	TBD	Need House design authorization.
Courthouse, San Francisco, CA	New construction	TBD	TBD	Site only.
Federal Building, Anchorage, AK	HVAC and other improvements		12/23/97	
The Pioneer Courthouse, Portland, OR	Renovation, chiller replacement	5/30/98	11/23/98	
Border Station, Oroville, WA	New construction		4/30/98	
Border Station, Blaine, WA	New construction		7/29/97	
Consolidated Law Bldg, Portland, OR	New construction	TBD	TBD	
Courthouse, Seattle, WA	New construction	TBD	TBD	Need House design authorization.
Lafayette FB, Washington, DC	Modernization		TBD	
Main Interior, Washington, DC	Modernization Ph 1/3		TBD	
Old Executive Omce Bldg, Washington, DC.	Misc building improvements		4/30/98	
FOB 10B, Washington, DC	Modernization		9/30/97	
T. Roosevelt FB (OPM), Washington, DC.	Modernization		TBD	
State Dept Ph 1/4	General building renovation		10/1/97	
JW Powell FB, Reston, VA	Laboratory improvements		11/17/97	
SEFC infrastructure, Washington, DC	New construction-infrastructure		TBD	

IN DESIGN—Continued

Project	Description	Design complete		Comments
		Original	Current	
CT Annex, Washington, DC	New construction	TBD	TBD	Need House design authorization.
FDA Lab CDER, White Oak, MD	New construction		6/30/98	
FDA Lab CDRH, White Oak, MD	New construction		3/30/99	
FDA Lab CBER, White Oak, MD	New construction		9/30/00	
FDA Lab OC, White Oak, MD	New Construction		9/30/00	

IN CONSTRUCTION

Project	Description	Construction complete		Comments
		Original	Current	
A.A. Ribicoff FB, Hartford, CT	Facility upgrade		1/31/98	
Norris Cotton FB, Manchester, NH	Facility alteration & upgrade		3/15/99	
J.O. Pastore FB, Providence, RI	Facility upgrade		9/15/97	
USCT, Boston, MA	New courthouse	1/25/99	7/25/98	
USBS, HighGate Springs, VT	New border station		10/7/97	
Peter Rodino FOB, Newark, NJ	Elev. modernization		6/30/99	
USCT (40 Foley Sq) New York, NY	Modern/upgrd hvac		3/12/01	
Jacob K. Javitz, New York, NY	Space alt.		3/31/99	
USCT (40 Foley Sq), New York, NY	Elev. modernization		6/30/99	
CT, Brooklyn, NY	New courthouse	6/30/01	2/24/01	
Foley PO-CT, Albany, NY	1st flr isa for U.S. marshalls	6/30/99	3/1/99	
PO/CT, San Juan, PR	Historic/Adaptive use	5/31/99	12/26/98	
FOB/CT complex, ISLIP, NY	New Federal bidg, & USCT	9/30/00	2/2/00	
J.A. Byrne CT, Philadelphia, PA	Elevator renovations		9/1/98	
Byrne-Green Complex, Phliadelphia, PA.	R&A, CT expansion	1/30/99	9/1/98	
SSA-Mid Atlantic Ctr, Philadelphia, PA	System retrofit		8/20/97	
SSA East High-Low Rise, Woodlawn, MD.	Modernization		3/1/98	
SSA Annex, Woodlawn, MD	Modernization		6/1/00	
G.H. Fallon FB-CT, Baltimore, MD	IRS expansion	6/30/98	4/1/98	
C.S. Fisher FB-CT, Trenton, NJ	Courthouse backfill	11/28/98	8/11/98	
M.H. Cohen USCT, Camden, NJ	Courthouse backfill	6/30/99	3/30/99	
FB-CT, Harrisburg, PA	Court expan & sys improv	9/30/97	7/27/97	
SSA-Mid Atlantic Ctr, Philadelphia, PA	R&A		5/10/98	
Courthouse, Scranton, PA	R&A		8/17/99	
FOB, Richmond, VA	Building upgrade		6/30/98	
Courthouse Annex, Richmond, VA	R&A		3/24/98	
Courthouse Annex, Scranton, PA	New construction	8/30/98	5/10/98	
VA FOB-phase 2, Philadelphia, PA	Demol of existing bidg/parking		10/29/97	
FB-CT, Charleston, WV	New construction	12/30/97	10/10/97	
FB-CT, Beckley, WV	New construction	6/28/99	6/30/99	
FB-CT, Wheeling, WV	R&A	8/30/99		
IRS Facility, Martinsburg, WV	New construction		9/8/98	
FB-CT, Asheville, NC	Renovations	9/12/97	9/12/97	
Strom Thurmond FB-CT, Columbia, SC	Renovations	11/3/00	11/3/00	
F.M. Johnson Jr FB-CT An, Montgomery, AL.	New construction	1/27/99	9/22/99	
Courthouse Annex, Tallahassee, FL	New construction	11/29/98	2/1/99	
FB-CT, Ft Myers, FL	New construction	2/2/98	2/2/98	
FB-CT, Tampa, FL	New construction	6/16/97	9/16/97	
IRS Service Ctr Annex, Chamblee, GA	New construction		7/28/98	
Courthouse, Albany, GA	New construction	6/16/98	2/15/99	
FB-CT, Covington, KY	New construction	9/3/99	9/3/99	
Courthouse, London, KY	New construction	9/2/99	8/6/99	
Matthew J. Perry FB-CT, Columbia, SC	New construction	10/17/00	10/17/00	
EPA Lab, Research Triangle, NC	New construction		2/1/01	
Howard Baker, Jr CT, Knoxville, TN	New construction	1/25/98	8/28/98	
Kluczynski IRS, Chicago, IL	Mod & Realignment		1/26/00	

IN CONSTRUCTION—Continued

Project	Description	Construction complete		Comments
		Original	Current	
E.M. Dirksen FB-CT, Chicago, IL	HVAC improvements		7/9/99	
E.M. Dirksen FB-CT, Chicago, IL	Elevator improvements		7/25/00	
Harold Washington, Ctr, Chicago, IL	HVAC/EMCS		8/31/97	
Kluczynski FOB, Chicago, IL	New fire alarm system		4/6/98	
536 S Clark FB, Chicago, IL	R&A		8/1/97	
E.M. Dirksen FB-CT, Chicago, IL	Clean HVAC ductwork		4/29/99	
E.M. Dirksen FB-CT, Chicago, IL	Chiller plant demolition		7/27/98	
E.M. Dirksen FB-CT, Chicago, IL	District court expansion	1/3/00	1/3/00	
A.J. Celebrezze, Cleveland, OH	Elevator modernization		1/6/98	
FB-CT, Cleveland, OH	New construction	12/24/00	12/24/00	
FB-CT, Milwaukee, WI	Courts expansion	10/30/97	10/30/97	
Courthouse, Hammond, IN	New construction	8/12/98	TBD	Award protest.
Border Station, Baudette, MN	Minor new construction		11/8/97	
FB-CT, Wichita, KS	New parking fac/CT impr	6/30/98	1/16/98	
Thomas Eagleton FB-CT, St Louis, MO	New construction	10/12/98	10/12/98	
FB-CT Kansas City, MO	New construction	3/12/98	6/30/98	
FB-CT, Omaha, NE	New construction	7/7/99	7/25/99	
Federal Building, Little Rock, AR	Elec, plumb, sprink, asbes		3/18/98	
U.S. Border Station, Santa Teresa, NM	R&A		9/29/97	
Old law school-bankruptcy, Little Rock, AR.	Renovation of law school	3/30/98	12/10/97	
U.S. Border Station, Brownsville, TX	Modernize border station		2/28/99	
FB-CT, Lubbock, TX	Modernize Federal building	5/30/98	4/23/98	
Bota Border Station, El Paso, TX	Expand import lot & docks		3/7/98	
A Maceo Smith FOB, Dallas, TX	Fire safety/modernization		10/15/97	
U.S. Border Station, El Paso, TX	Expand bs land and facility		1/31/98	
Courthouse, Lafayette, LA	New construction	1/31/99	10/25/98	
FB-CT, Albuquerque, NM	New construction	11/30/99	9/16/98	
VA Data Center, Austin, TX	New construction		12/8/98	
FB-CT, Brownsville, TX	New construction	12/31/98	10/1/98	
Courthouse, Corpus Christi, TX	New construction	9/30/00	6/30/00	
FB-CU, Denver, CO	R&A	12/21/97	12/21/97	
FB-PO-CT, Bismarck, ND	Modernization	1/10/98	7/15/98	
NOAA Lab, Boulder, CO	New construction		10/11/98	
USGS Lab Bldg, Lakewood, CO	New construction		10/11/98	
U.S. Border Station, Pembina, ND	New construction		9/1/98	
FB-CT Annex, Fargo, ND	New construction	10/2/97	12/15/97	
FB 300N Los Angeles, Los Angeles, CA.	R&A		8/1/02	
CT, 312N Spring St, Los Angeles, CA	R&A	9/30/98	6/30/98	
FB, 2800 Cottage Way, Sacramento, CA.	Seismic upgrade & renova		3/17/99	
USGS Bldg 3, Menlo Park, CA	Building modernization		1/17/98	
FB-CT(US attorneys), San Diego, CA	U.S. atty alignment, bidg, sys	10/10/98	6/12/99	
Border Station Main Bldg, Tecate, CA	New construction		10/30/98	
Prince Jonah KK FB-CT, Honolulu, Hi	R&A		3/30/99	
Courthouse, Tuscon, AZ	New construction	8/15/99	9/30/99	
Courthouse, Phoenix, AZ	New construction	12/15/99	12/15/99	
Courthouse, Santa Ana, CA	New construction	4/30/98	10/30/98	
Courthouse, Sacramento, CA	New construction	12/27/97	3/31/98	
Courthouse, Las Vegas, NV	New construction	3/15/00	4/30/00	
FB-USPO, Richland, WA	Seismic, fire protection, HVAC		4/15/98	
Courthouse, Portland, OR	New construction	7/23/97	7/30/97	
Ariel Rios FB, Washington, DC	Finishing the unfinished facade.		3/30/98	
ICC, Customs, Connecting Wing, Washington, DC.	Building modernization		12/4/00	
FOB 8, Washington, DC	Elevator upgrade		12/1/97	
Ariel Rios FB, Washington, DC	Modernization Ph 2/2		9/27/99	
New Executive Office Bldg, Washington, DC.	Replace chillers		7/31/97	
FOB 6, Washington, DC	General building renovation		4/1/98	
Secret Service Hq, Washington, DC	New construction		6/1/99	

IN CONSTRUCTION—Continued

Project	Description	Construction complete		Comments
		Original	Current	
SEFC Site Prep/Decontamination, Washington, DC.	New construction		10/28/98	
Ronald Reagan Bldg, Washington, DC	New construction		11/3/97	
IRS Hq, New Carrollton, MD	New construction		9/30/97	
Secret Service Admin Bldg, Beltsville, MD.	New construction		11/1/98	
Columbia Plaza Hi-rise, Washington, DC.	Renovation & upgrade		1/11/98	
Justice Bldg Ph 1, Washington, DC	Modernization Ph 1/3		8/1/97	
FDA Lab CFSAN, College Park, MD	New construction		8/30/98	

PUBLIC BUILDINGS SERVICE

Question. The Federal Buildings Fund was established to provide funds for the operation, maintenance, repair and alteration and, with remaining revenues, construction of federal facilities. The revenue for these activities is generated through agencies' payment of commercially equivalent rental rates. This "Rent" forces agencies to budget for their office space in their annual budget requests to Congress. The Public Buildings Service has stated that these revenues no longer can provide adequate funding levels for construction and in some cases major repairs and alterations. Please explain why the original revenue generating Rent system will no longer provide the revenue levels adequate to meet Federal space requirements.

Answer. In recent years the underlying assumptions of the Federal Buildings Fund have not proven to be accurate. Usually, the FBF has generated enough revenues to operate, maintain and repair buildings. The Fund can also generate enough revenues to fund a limited capital program consisting of major building renovations and new construction. In recent years, the Fund has had to cope with unforeseen major expenditures, including the exponential expansion of our court and law enforcement agencies and with rent caps.

Congress has recognized, at least tacitly, the limitations of the Fund by supplementing it with appropriations for many projects, such as the purchase contract program in 1972 and the lease purchase projects in the late 1980's. Over the last four fiscal years Congress has appropriated over a billion dollars to the Fund for construction and renovation.

Question. The Federal Buildings Fund has been discussing proposing a new "rent" system since 1995. What is the status of the new system? Will the new system include a revolving fund component? Will agencies "rent" be tied to actual costs?

Answer. The new Rent system, which is referred to as the New Pricing Policy, is presently under review by the Of lice of Management and Budget. Changes to the Federal Property Management Regulations (FPMR) necessary to implement the New Pricing Policy are being circulated for review and comment by OMB. There is no revolving fund component to this new policy. Under the new policy, Rent for leased space will consist of a cost pass-through of lease contract costs, operating costs that exceed those embedded in the lease contract, and GSA fees. The Rent for owned space will be priced at fair market value, which will be based upon a market appraisal.

Question. What safeguards has PBS developed and implemented to ensure that a revenue shortfall of over $800 million does not recur?

Answer. PBS is taking a number of different actions to deal with the shortfall. PBS is reviewing the accuracy of its current inventory data base. PBS is making improvements to its existing tracking and management systems. This will insure that as PBS transitions to the new inventory and rent data system (known as STAR), the basic data included in the system will be accurate and up-to-date. PBS is tracking its billing and collection systems continuously. PBS has asked the GSA Inspector General to monitor an audit of our inventory data, to be conducted by private contractors. This audit will consist of a detailed examination of all basic information on a statistically significant sample of the GSA inventory. Buildings will be physically measured, and this "actual" square footage will be used to validate existing assignment data in our system for the building, the square footage used to determine our billing rates, and the square footage used to bill customer agencies.

PBS is also developing early warning systems to alert us to changes in the space inventory. The new Of flee of the CFO within PBS is tracking monthly income and

expense data from all of our regions to establish trends in our system quickly. Interdisciplinary teams within PBS have been established to make recommendations for long-term improvements to the system. One such solution, which we believe has great potential, is our pilot program to recapture vacated space in the inventory in a short time period by financing the cost of our tenant space consolidation. This is the program we have labeled "Ponding the Raindrops."

Question. The Public Building Service's reorganization includes an Innovation Division. Please explain, in detail, the responsibilities of this division and how the division will correspond and coordinate its activities with the General Services Administration's Policy and Operations Department?

Answer. The Strategic Innovations Office is a small group within the Public Buildings Service which is responsible for nurturing and facilitating the development of innovative products, practices and strategies that improve PBS' performance, services and competitive edge. This organization will evaluate emerging issues affecting PBS, develop ideas until they are well-framed, work with other organizations within PBS and GSA to coordinate and shepherd initiatives, and bring together appropriate resources to review, evaluate and pursue concepts and ideas.

Strategic Innovations will work closely with other organizations within the Public Buildings Service as well as other organizations within the General Services Administration, including the Office of Governmentwide Policy. The Office of Governmentwide Policy has a broader role as it is charged with developing governmentwide policy. Coordination of activities between that Of lice and Strategic Innovations will be accomplished through the close working relationship the two organizations have established.

Question. PBS signs leases requiring fixed term leases. The construction of the facility or the tenant build-out is not always completed by the lease start date. Please provide a breakdown of revenue lost as a result of signing firm term leases in fiscal year 1995, fiscal year 1996 and projected for fiscal year 1997. (Please include the revenues for the Ronald Reagan Building in the calculations.) PBS is projecting a 10 percent vacancy rate in Government owned and leased space. How does that compare to the industry standards?

Answer. PBS's information systems use buildings, rather than leases, as the base data in all income analysis. Therefore, it is not possible to provide a breakdown of net revenue loss resulting from delays in build-out or construction completion. Most of the lease contracts written by PBS provide for a flexible occupancy date. Normally PBS payments to lessors are not made until space is ready for agencies to occupy.

With respect to the Ronald Reagan Building, it should be noted that the building is a lease purchase project, not a lease. The current financing arrangements for the Reagan Building were prepared by the Pennsylvania Avenue Development Corporation and the Federal Financing Bank, not a private lessor.

The 10 percent vacancy rate you refer to includes a number of space classifications which are not comparable to vacant space in the industry, including space that is being readied for a new tenant or under alteration for a tenant. Currently GSA has approximately 13.5 million square feet of vacant available space, which could be occupied immediately. This is 4.7 percent of the GSA inventory, and considerably less than the vacancy rates currently experienced by the industry in general, and by the industry in most metropolitan markets. CB Commercial's Office Vacancy Index of the U.S. indicated that the nationwide metropolitan vacancy rate was 11.6 percent for the first quarter of 1997, and that individual area vacancy rates ranged from a low of 4.3 percent in San Jose, CA, to a high of 21.6 percent for Hartford, CT.

POLICY AND OPERATIONS

Question. The Public Buildings Service is developing an Innovation Division within the Service. What safeguards are in place to ensure the policies developed by PBS are consistent with overall real property policies developed by the Policy and Operation Department.

Answer. The role of Strategic Innovations is not strictly policy development; as noted in response to question 4 in the section entitled "Public Buildings Service", above, Strategic Innovations is responsible for nurturing and facilitating the development of innovative products, practices and strategies that improve PBS' performance, services and competitive edge. The Office of Real Property within the Office of Governmentwide Policy develops policies that apply to PBS and other agencies that operate under the authority of the Administrator of General Services. Among other things, it identifies and shares best practices across the government.

To the extent that new policies emerge from the work that Strategic Innovation does, we would expect that policy to be consistent with governmentwide policy in general, as it has been in the past. For example, PBS worked closely with the Office of Governmentwide Policy to develop the innovative "Can't Beat GSA Leasing." program. Further, as noted in the response to the earlier question, Strategic Innovations has a close working relationship with the Office of Governmentwide Policy; if Strategic Innovations were to pursue an initiative that would improve PBS' performance but would have policy implications inconsistent with existing policies enunciated by Office of Governmentwide Policy, we would expect Strategic Innovations to collaborate with the Office of Governmentwide Policy as part of the development of the initiative.

Question. Planning a change of the Federal presence in a locality requires knowledge of the existing and projected Federal presence. Since not all Federal properties are in the General Services inventory, what steps is the Office of Policy and Operations taking to develop comprehensive community plans? When will the plans be completed?

Answer. As a follow-on action to its Federal Real Property Asset Management Principles issued in October 1996 and at the request of OMB in its fiscal year 1998 Budget Passback to GSA, the Office of Real Property is conducting a research study which includes an Interagency Community Master Plan (ICMP) to determine the value of Federal agencies sharing information needed for future real property asset management decisions. Also, this research study, scheduled to be completed by September 1997, will determine what type of community-based real property information is essential, the degree of detail needed, and the best form of presenting this information to all Federal agencies. An ICMP will be completed as one form of presenting this information. The research study will assess the merits and make recommendations as to whether ICMP's are the most practical means for sharing community based information, or whether another process/form will be of greater utility to Federal agencies.

Question. Please provide detailed information on the Electronic Clearinghouse being developed, in conjunction with the Financial Management Service, to enhance the disposal of real estate assets.

Answer. In August 1996, the General Services Administration established an electronic real property information clearinghouse on the Internet. The URL address is http://policyworks.gov/org/main/mp/library/policydocs/chhome.htm. The clearinghouse provides building and facility information and data, and policies and procedures that can be accessed and shared among real property professionals globally. Federal agencies that have surplused or excessed real property can link directly to specific clearinghouse categories where properties can be listed as vacant for renting and outleasing or advertised for sale. There are also electronic links to governmentwide policies and information, to GSA business lines, and to Federal agency homepages that can provide training and technical assistance to agencies in expediting the disposal of real property.

The clearinghouse will continue to be expanded in scope and refined overall to reflect consistent, accurate, real time information and data, and "best practices" that promote efficient and effective real property asset management.

Following is a copy of the Real Property Clearinghouse Home page:

REAL PROPERTY CLEARINGHOUSE HOME PAGE

The Real Property Information Clearinghouse provides the electronic gateway to the dissemination and sharing of building and facility information and data among real property professionals. This collaborative effort is in response to the National Performance Review which recommends that the General Services Administration (GSA) act as a clearinghouse to offer Federal agencies alternatives for satisfying their real property requirements.

GSA accepts no responsibility for the completeness, accuracy or validity of the building and facility information and data that is provided through the clearinghouse by non-GSA entities, nor does GSA endorse those non-GSA Real Property Professionals that provide information and data through the clearinghouse.

The categories below contain building and facility information and data provided by real property professionals. Questions on building and facility information and data should be referred to the specific contact person where the information and data is located. Select a category or scroll down for an explanation of each category.

1. Available Vacant Space Data
2. Property for Sale Data
3. Property Inventory Data
4. Federal Space Needs Data

5. Real Property Highlights Data
6. Federal Real Estate Suppliers Data
7. Policies and Procedures Data
8. Organizations Data

EXPLANATION OF CATEGORIES

1. Available Vacant Space Data: Provides a listing of the available Federal Government's controlled space and commercially available space and establishes the web page links for each provider of the information data.

2. Property for Sale Data: Identifies real property (buildings and facilities) that is for sale by Federal agencies and commercial realty property owners, and establishes the web page links for each seller.

3. Property Inventory Data: Provides descriptive information and data on buildings and facilities, and establishes the web page links for each provider of the information and data.

4. Federal Space Needs Data: Provides notification of Federal agency's need for real property (buildings and facilities), and establishes the web page links for each notification provider.

5. Real Property Highlights Data: Identifies agency developed measures which relate to buildings and facilities, and establishes the web page links for each provider of the information and data.

6. Real Estate Suppliers Data: Specifies real estate services and related providers, and establishes the web page links for each information provider.

7. Procedures Data: Displays Federal real property policies, procedures and guidance, including how to do business with an agency, and establishes the web page links for each provider of the information and data.

8. Organization Data: Displays organizational structures for Federal real property providers and establishes the web page links for each provider.

Real property professionals that are either interested in becoming a partner of the clearinghouse or want to add or modify these existing categories, should contact: Ron Whitley on (202) 501–1505 or Internet E-Mail: Ronald.Whitley@gsa.gov

Question. Please provide a list of real property disposals completed in fiscal years 1993 through 1996. Please include the property location, appraised value, sales proceeds, and the marketing and administrative costs related to these sales.

Answer. During the time period of fiscal years 1993 through 1996, GSA had nearly 2,500 individual disposal actions, with a total value of approximately $850 million (whether or not cash was actually received). For fiscal year 1997 to date, there have been 497 individual disposal actions with a total value of approximately $158 million. For the purpose of this answer, we believe the attached summary chart might be most beneficial. The second chart summarizes the marketing and administrative costs associated with Public Sales for fiscal years 1993 through 1996. If more in-depth information is required, the Office of Property Disposal would be pleased to discuss or submit additional information to the Committee.

PROPERTY DISPOSAL REDEPLOYMENT PROJECTS

[Dollars in millions]

Method	Fiscal years—									
	1993		1994		1995		1996		1997 [1]	
	No.	Cost	No.	Cost	No.	Cost	No.	Cost	No.	Cost
Fed. transfer	24	$41	20	$54	34	$10	16	$21	18	$1
Public benefit	26	14	33	51	59	141	44	138	21	20
Homeless	5	28	5	1	2	1	2	1	.....	.....
Public sale	195	31	360	38	458	37	1,070	69	450	37
Neg sale	36	10	23	26	28	58	44	81	8	100
Total	286	124	441	170	581	248	1,176	309	497	158

[1] Note: As of 3/31/97.

Office of Property Disposal

(Marketing and administrative costs [1])

Fiscal year	
1993	$899,000
1994	902,032

Fiscal year	
1995	1,084,100
1996	2,021,700

[1] Marketing and Administrative cost of Public Sales.

INFORMATION TECHNOLOGY FUND

Question. "One-Time" expenditures from the Reserve Fund were required in fiscal year 1996 ($34 million) and are projected for fiscal year 1997 ($46 million) and fiscal year 1998 ($49 million). Please explain the events requiring Reserve Fund expenditures in each year?

Answer. The reserve expenditures reflected in the budget submission for fiscal year 1996 through fiscal year 1998 are consistent with the IT Fund's Cost and Capital Requirements Plan approved by the Of floe of Management and Budget (OMB). As part of the annual budget process, use of the reserve must be approved by OMB pursuant to section 110(a)(1) of the Federal Property and Administrative Services Act of 1949.

The Cost and Capital Plan provides funding for capital investments and program costs that are one-time or non-recurring in nature that improve delivery of services to our customer agencies. The majority of the planned expenses for fiscal year 1996 through fiscal year 1998 are in support of the FTS2000 long distance program. To ensure stable rates for its clients, the FTS2000 program funds one-time expenses and some transition costs through the FTS2000 Reserve. These expenses include costs associated with transitioning the Department of Treasury from Sprint to AT&T, one-time system development costs, and expenses associated with transitioning to the FTS2001 contracts. In addition, $5 to $6 million a year (1 percent of the FTS2000 business volume) is included to fund information technology initiatives approved by the Interagency Management Council (IMC), and the Government Information Technology Services (GITS) Board.

The remaining reserve expenses are for costs associated with the Local Telecommunications, Federal Systems Integration and Management Center (FEDSIM) and the Federal Computer Acquisition Center (FEDCAC), and Federal Information Systems Support Program (FISSP) programs. The Local Telecommunications program reserve expenses include depreciation of the Aggregated Switch Procurements (ASP), the Individual Switch Procurements (ISP) and Washington Interagency Telecommunications System (WITS) procurements, projected one-time costs associated with the WITS 99 procurement, and the Metropolitan Area Acquisition (MAA) program. The MAA program is expected to achieve substantial price reductions for its local telecommunications customers. FEDSIM/FEDCAC and FISSP primary use of reserve funds is for capital investments for system enhancements/automation, and for service management initiatives that are one time in nature and benefit the client agencies.

The following table reflects the Reserve Fund expenditures by category by fiscal year:

[In millions of dollars]

Reserve category	Fiscal years—		
	1996	1997	1998
FTS2000	22	32	40
IT initiatives	1	7	5
Local telecommunications	3	4	4
FEDSIM/FEDCAC, FISSP	1	1	.....
Other	7	2	.....
Total	34	46	49

Question. What is the status of the FTS2001 procurement? Have the competing bidders expressed an interest in continuing a mandatory use requirement?

Answer. The Request for Proposals (REP) for the FTS2001 procurement was issued in May, 1997 with proposals due at the end of September, 1997. We anticipate contract award in early to mid-1998, with transition to take place over the following year. During the early years of development of the FTS2001 strategy (1993–1995) there was considerable discussion, both pro and con, with the bidder community about the necessity of mandatory use provisions. It was concluded that this requirement for the current system under enacted appropriation language would no longer

be necessary for the follow-on system. There will be minimum revenue guarantees, which will likely be fulfilled in the early years of the new contracts, which should satisfy the successful bidders.

GENERAL SUPPLY FUND

Question. The General Supply Fund is required to operate on an industrial funded basis. Each of GSA's industrial funds finance many different items. Is it GSA's policy throughout the industrial funding to recover the full cost of each item or to break-even on an aggregated fund basis?

Answer. Within GSA's Federal Supply Service (FSS), goods and services are provided to customer agencies through several means. These include FSS Supply Distribution Facilities, Stock Direct Delivery, Special Orders (Nonstores and Automotive), Federal Supply Schedules, Excess Personal Property Sales, Transportation Management Operations, and the Interagency Fleet Management System (IFMS). Annual government sales in each of these programs range from $40 million to $5.8 billion. It is the policy within FSS that each of these methods of supply are priced to recover the full cost of the item or services provided through that method of supply on a break-even basis and not to base pricing on an aggregated fund basis. Each of these methods of supply have independent pricing structures to recover their costs. Net Income financial statements are produced and evaluated on a monthly basis for each of the methods of supply. Based upon year-end financial results, price adjustments may be made to the subsequent year's pricing to help ensure that each method of supply continues to approximate a break even posture.

Question. What methodology does GSA use to account for transportation costs in the price of items supplied under the retail packaging products program? Has GSA attempted to determine whether the price should be applied standard transportation cost mark-ups?

Answer. FSS utilizes a cost distribution model to allocate aggregate transportation costs to individual commodities supplied under the retail packaging products program. These individual transportation costs are then rolled up and included as part of the class mark-on for the commodities involved. The cost distribution is based on the weight of the item, the number of shipments incurred, and the average distance over which items are shipped from known distribution points. FSS has attempted to look at several different options for pricing transportation expenses, including a standard transportation cost mark-on. However, due to the tremendous variability in the cost of transporting certain commodities (e.g., a box of pens sent via express mail versus a pallet of fiberboard shipped by the truckload), the cost distribution model has continually proven to be the most accurate available means of identifying the cost of transportation for a given class of commodities.

Even with the cost distribution model, only an average transportation cost can be computed for any particular item or Federal Supply Class for pricing purposes. This is because it is impossible to distinguish the transportation cost of other items being shipped in the same packaging or the same order. A box of pencils may be shipped with some rolls of tape via mail carrier one time, whereas another order includes a box of pencils with fifteen different office supply items the next time.

Question. GSA adds a 7 percent surcharge to cover costs of delivering items to post offices under this program. How was this surcharge calculated? How often is the surcharge evaluated?

Answer. The 7 percent surcharge was calculated based on a retail packaging products transportation cost study done at our Burlington Depot. The study reported the number of orders, the total weight of orders, and the cost of transportation for the orders that were shipped via USPS. It also reported the same data elements for those orders shipped via truck freight. The study was done in March 1995 and has not been redone since that time. The following data is from the study:

	Lines	Weight	Actual price	Trans cost
USPS	193	4,630	$3,774.66	$1,325.59
GBL	95	10,425	7,846.28	826.07
Totals	288	15,055	11,620.94	2,151.66

	Lines	Convert	All USPS	To UPS
UPS	193	4,630	$3,774.66	$667.45

	Lines	Convert	All USPS	To UPS
GBL	95	10,425	7,846.28	826.07
Totals	288	15,055	11,620.94	1,493.52

Note: Using USPS cost GSA $658.14 more than UPS.

The following chart shows how the data from the study was combined with the transportation of other items to arrive at 6.6 percent (rounded to 7 percent) surcharge to cover the additional transportation cost:

Mode	Postal resale items (Burlington depot)				USPS	ISPS
	USPS	GBL	Total	Annual	Annual	Futr. Amt.
Weight	4,630	10,425	15,055	2,395,828		
Percent of weight	31	69	100			
Cost	$1,325.59	$826.07	$2,151.66	$342,412	$210,952	$1,130,101
Percent of cost	62	38	100			
Cost/lb.						
Lines	193	95	288	45,832		
Lb./line	24	110	52			
Value	$3,774.66	$7,846.28	$11,620.94	$1,849,338		$9,907,166

	Depots	remote CSC's	total	USPS discount	USPS difference	USPS future diff.
GBL	$29,189,160	$1,714,218	$30,903,378			
USPS	4,739,403	572,118	5,311,521	.07	$371,806	$450,914
RPS	5,802,168	1,507,941	7,310,109			
UPS	4,267,848	1,858,935	6,126,783			
Total	43,998,579	5,653,212	49,651,791			

	All CSC items FY 1993 rate	Resale items rate	Markup factor	Resale items annual amt.	Resale items future amt.
Commodity cost	$112,970,100	$112,970,100		$1,849,338	$9,907,166
Noncommodity cost	$47,489,180	$58,072,916		$950,662	$5,092,834
Total cost (selling price)		$171,043,016		$2,800,000	$15,000,000
Markup	42.04	51.41	6.60		
Transp. cost (USPS cust.)	$8,121,185			$132,945	$712,205
Transp. cost (norm. rate)		$18,704,921		$306,202	$1,640,370
Weight shipped	130,876,900				
Cost/lb.	.062	.143			
Transp. cost difference		$10,583,736		$173,257	$928,164

Question. What percentage of orders are sent by U. S. Mail?

Answer. The GSA supply systems only record the method of delivery for orders which are processed through the FSS–19 system, and the postal retail items are not captured in this system. For all customers, 3,503,794 orders were processed through the FSS–19 system, of which 734,467 or 21 percent were mailed, representing 1.8 percent of total weight shipped.

Question. For orders sent by U. S. Mail what is the average and median postage charge incurred by GSA and what is the average and median dollar amount of the order?

Answer. The GSA supply systems do not record the cost of mailing individual orders. Small orders are consolidated into larger mailing containers whenever practical, with a consequent loss of visibility of the cost of mailing each individual order. Given the small dollar cost of mailing each container and the large number of containers involved, it has not been practical to attempt to capture and allocate this data at the individual order level. Instead, daily summaries of mailing costs are aggregated monthly by the Distribution Centers and then consolidated into monthly management reports. These management summaries indicate that the GSA Distribution Centers mailed 1,172,160 containers to all customers, from both the FSS–19 system and the Customer Supply Center system, at an average cost of $5.05 per

container. The summary method employed in collecting this data precludes development of medians.

For orders mailed from the FSS–19 system to all customers, the average order value was $46.30, with an average weight of 9.6 pounds. The statistical tools available in our current inquiry package do not develop medians.

Question. In the Customer Supply Center program, how many items are offered for sale to the U. S. Postal Service for the retail packaging program? How are these items identified? Could GSA price retail packaging program items in the CSC based on their actual cost? Can the items be readily identified and segregated from other items in the CSC?

Answer. The Customer Supply Centers are currently stocking 25 National Stock Numbers (NSN's) for the retail packaging products program. These items are illustrated in a special Mailing and Packing Items section in the introduction section of each CSC catalog and are also located in the general content of each catalog. The items are priced based on actual cost as explained above, but the pricing is established on a nationwide basis by GSA's Office of Business Management and Marketing in coordination with the Office Supplies and Paper Products Commodity Center. These items are categorized by usage for all Federal customers and are not identified for purchase for any singular customer. All items stocked are identified by NSN and located/stored within each center. The Centers do not commingle NSN's in one location; thus, every item stocked is readily identified.

Question. Please explain the process for excessing Federal furniture and discuss whether proper channels were followed in excessing furniture in Arkansas as it relates to the Arkansas Cooperative Extension Service.

Answer. Under the provisions of the Federal Property and Administrative Services Act of 1949, as amended (the Property Act), and the Federal Property Management Regulations, executive agencies are supposed to continuously survey personal property in their possession, including furniture, to determine whether such property is still needed for official use within the agency. Property not needed for official use within the agency is declared excess and reported to the General Services Administration (GSA) to be screened for possible transfer to other Federal agencies. Federal agencies may acquire excess property for their direct use or for use by their cost-reimbursement contractors, project grantees and cooperative agreement participants.

Property for which there is no Federal requirement, as determined by GSA, is declared surplus and is made available for transfer to the States for subsequent donation to public agencies at the State and local level and certain non-profit organizations as authorized by Congress. Property not needed for donation purposes is offered for sale to the general public by competitive means or otherwise disposed of.

The Arkansas Cooperative Extension Service is eligible to receive excess property through the U.S. Department of Agriculture. However, title to such property remains vested in the Federal Government. As a public agency of the State of Arkansas, it is also eligible to receive donated surplus property through the Arkansas State Agency for Surplus Property. We are not familiar with any incident alluded to in the question, but we would be happy to address any specific questions on this matter.

MERIT SYSTEMS PROTECTION BOARD

Prepared Statement of Benjamin L. Erdreich, Chairman

Chairman Campbell, Ranking Member Kohl, and Members of the Treasury and General Government Subcommittee: I am pleased to provide a statement, as the Subcommittee begins its consideration of the appropriations for the U.S. Merit Systems Protection Board (MSPB) and other components of the Federal government's civil service system. This statement provides an opportunity to report to the Congress about employment and personnel issues facing Federal agencies and employees from MSPB's unique dual perspectives. MSPB cases present specific issues and problems facing Federal employees and managers, and its published studies provide a broad picture of trends and concerns about the civil service system. The independent review provided by these two statutory functions is central to preserving a merit-based employment system free from actions taken arbitrarily or for political motivations.

MSPB BUDGET REQUEST FOR FISCAL YEAR 1998

After thorough consideration of our resources and needs, it is clear that the Office of Management and Budget (OMB) level of funding—$26,880,000—is insufficient. At

that level, we will be forced to RIF administrative judges and attorneys directly involved in adjudicating cases. Because this staff is necessary to ensure that there is a sound due process system in our Federal civil service, we are making a priority request for an additional $840,000 over the OMB passback level pursuant to our budgetary bypass authority, 5 U.S.C. 1204(k). We are also using our bypass authority to request an additional $270,000 to support critical ADP needs. An investment in information technology now will allow us, as we move toward a paperless case file system, to handle future cases more quickly and with fewer staff. I urge you to support both these requests and fund the Board at $27,990,000 in fiscal year 1998.

REDUCED RESOURCES—THE MSPB RESPONSE

The MSPB's pattern of constant demand on shrinking resources is clear. The MSPB case load has continued at high levels, and, although its budget has steadily declined, the MSPB has maintained its outstanding record of case handling through cut backs in staff, restructuring, and reduced administrative costs. Even these extensive changes have not been enough. We will be cutting 20 more administrative positions by October 1, 1997, through a combination of RIF's and buyouts. The MSPB is now, however, at the point where further cost cutting will have deleterious effects on its adjudicatory mission.

The figures speak for themselves. Since 1993, available funds for the MSPB, adjusted for inflation, have dropped from $26,400,000 to $23,571,556. The OMB passback level for fiscal year 1998 would put the MSPB at $23,373,913—a total drop in available funding of $3,026,087. As the attached chart shows, the MSPB has met these resource limits. Since 1993, when I was appointed, FTE has been cut by 18 percent (from 326 to 266), SES positions reduced by 26 percent, regional offices shrunk from 11 to 5 (eliminating 1 and converting 5 others to field offices), office space consolidated, regional directors moved from administrative work to adjudicating cases, and office administrators retrained as paralegals.

In planning the best use of steadily declining resources, the MSPB decided to preserve its core of administrative judges and attorneys as indispensable to its statutory adjudicatory mission. That strategy has worked. The MSPB's case handling record is impressive.

—In fiscal year 1995, the Board and its regional and field offices closed over 13,000 cases, including cases resulting from the U.S. Postal Service restructuring—a 24 percent increase over the cases closed in fiscal year 1994 and a 40 percent increase over fiscal year 1993.

—If the Postal Service cases are excluded from the fiscal year 1995 totals, the MSPB workload has remained constant—between 10,300–10,700 cases decided each year since 1994.

—In fiscal year 1995, the regional and field offices handled 8,925 cases—the second highest volume in 10 years—a caseload of 129 cases per administrative judge. The Board Members closed 1,375 cases in fiscal year 1996, including appeals of agency actions, alleged Hatch Act violations, and other original jurisdiction cases.

—In fiscal year 1996, the Board's principal reviewing court, the U.S. Court of Appeals for the Federal Circuit, left 97 percent of the MSPB decisions it reviewed unchanged.

—As for MSPB timeliness, in fiscal year 1996, on average, administrative judges decided cases in 94 days. The average processing time at Board headquarters for review of initial decisions by administrative judges was 121 days. This means that, on average, an appeal to the Board was processed through both levels of review in just over seven months.

THE OUTLOOK

The MSPB is now at the point where it can make no further cost reductions without eliminating administrative judge and attorney positions. If Congress limits MSPB appropriations to the OMB passback level, the immediate effect will be an increase in the number of pending cases. Delay in resolving employment disputes creates extra costs for the parties—and ultimately for the American taxpayer, exacerbates the antagonism that accompanies litigation, and weakens productivity in the Federal workplace.

There is little chance that the fiscal year 1998 budget problem will be solved by significantly reduced filings with the Board. It is also unlikely that the recently reauthorized Administrative Dispute Resolution Act will help reduce litigation until it is embraced and implemented by agency heads to resolve disputes where they arise—in the workplace—not in the courthouse.

The MSPB projected volume of cases—about 10,700 for fiscal year 1998—reflects continued agency downsizing; expansion of MSPB jurisdiction with regard to groups of employees (e.g., whistleblower protections for employees of government corporations and coverage of VA health care professionals); and newly created statutory protections (e.g., the Uniformed Services Employment and Reemployment Rights Act; Presidential and Executive Office Accountability Act). Indeed, the Congressional Budget Office recently stated that the continued expansion of veteran's preference appeal rights will increase budgetary pressures on the MSPB.

The MSPB reflects a unique budgetary tension in the Federal government. It is simultaneously an agency that continues to undergo significant downsizing, while its own workload includes adjudicating the broader downsizing actions taken government-wide.

Nor can the fiscal year 1998 budget problem be solved by squeezing MSPB spending on specific object classes further. The MSPB has little financial flexibility. It devotes approximately 80 percent of its budget to personnel compensation. An additional 12 percent is required for rent, utility, and maintenance costs while another 3 percent is for direct case processing costs, including travel, court reporting, and legal research. This leaves little flexibility—about $120,000—for employee training, printing, technology improvements, and equipment or to adapt to uncontrollable changes in workload.

One promising prospect for future budget reductions lies in MSPB use of information technology. But, that future savings requires an outlay next year. ADP is a cornerstone of our ongoing agency planning, and we have carefully stepped from needs assessment, to architectural plan, to implementation. The desired results include dramatic reductions in paperwork, easier access by Federal employees seeking to file cases, and greater efficiencies at the MSPB. This efficiency includes using technology as a safety net for support functions eliminated through downsizing. The fact is that we have been barely able to squeeze out such planning and implementation under more recent budgetary constraints. Our request for $270,000 for information technology over the OMB passback reflects the reality that we have no flexibility remaining in our budget to pursue these improvements.

DUE PROCESS REQUIRES SUPPORT FROM CONGRESS

Providing a fair, neutral and timely process to review Federal employment disputes is essential to a merit-based employment system. While I appreciate the difficulty facing Congress this year in allocating scarce resources, I am compelled to request additional funds for our function.

Without the requested additional funding for the MSPB, the job of providing statutorily demanded due process in a timely and high quality manner will be jeopardized. To avoid undermining the MSPB's ability to review employment disputes, I ask you to support an appropriation of $27,990,000 for the Board in fiscal year 1998.

QUESTIONS SUBMITTED BY SENATOR CAMPBELL

INFORMATION TECHNOLOGY

Question. The Merit Systems Protection Board has requested $1.11 million more for fiscal year 1998 than approved by the Office of Management and Budget. One of the primary reasons is to fully fund improvements in the computer system. While we understand the need to invest in technology in order to streamline operations, we have learned the hard way the significant ADP investment should only come after the completion of a comprehensive plan. Has MSPB prepared a blueprint for ADP investments?

Answer. Yes, the MSPB has a Technology Plan, fiscal year 1996–2000. In accord with the plan, the MSPB will first complete the architectural framework needed for client server computing. Once the architecture is in place, MSPB will begin evaluation and testing of components of a client server system, including electronic filing of the MSPB appeal form, electronic receipt and dissemination of case documents between MSPB and the parties to the case, electronic storage of case files, and redesign of the case management system. The MSPB is in the initial stages of a pilot project—an electronic filing project with the U.S. Court of Appeals for the Federal Circuit, the MSPB's primary reviewing court. Building upon experience gained during the pilot, MSPB will develop a prototype paperless case file system in a regional office.

Question. If there is a blueprint for ADP investments, was the blueprint developed in-house?

Answer. The MSPB Technology Plan was developed in-house by the MSPB's Director of Information Technology with limited consultation in design of architecture.

Question. If so, what are the qualifications of the person who prepared the comprehensive plan?

Answer. The director who prepared the Technology Plan has a Master's degree in Computer Systems from American University and approximately 25 years of experience in the IRM field, 15 years as a division director in four agencies.

TRAINING

Question. Table 3 of the MSPB budget justification document is "Obligations by Object Class" which outlines specific spending expectations. We note that training is not mentioned in this table. How much has MSPB spent over the last two years for employee training?

Answer. MSPB spent $99,000 in fiscal 1995 and $212,000 in fiscal 1996 on payments for training. The higher amount in 1996 reflects our need to provide more training for staff who have been asked to take on new or greater responsibilities as part of our continuing downsizing and reengineering. It should also be noted that travel costs associated with training for fiscal year 1996 were captured as a part of training expenses to give us a true picture of our training costs.

Question. How do those costs break out with regard to career versus political employees?

Answer. Less than 1 percent of training funding ($565) was spent on training for political employees in fiscal 1995 and 8 percent of funding ($17,381) was spent in fiscal 1996. The training for political employees was to assist them in their leadership roles in managing the MSPB's downsizing and reengineering efforts. For fiscal 1996, the Chairman funded a leadership training course for all department heads (nonpoliticals), and training of new staff members, including training in alternative dispute resolution techniques.

Question. What are the anticipated training costs for fiscal year 1998?

Answer. We expect to spend about $100,000 in fiscal 1998 for training staff to take on changed responsibilities, training legal staff, including training new administrative judges in hearing procedures, and training staff in information technology.

Question. Is there a training schedule for employees at the MSPB?

Answer. Last year, senior managers began a program to look at training agency-wide preceding a new budget year to determine top priorities in training, e.g., adaptation to new technologies, enhancement of individual skills (where corrective measures may need to be taken or new responsibilities undertaken as the MSPB downsizes and restructures), and direct mission-related activities (e.g., the Judicial Conference of the U.S. Court of Appeals for the Federal Circuit, the primary reviewing court of the MSPB, the National Judicial College training for new administrative judges). There are two objectives of the MSPB training program: (1) effective spending of limited resources; and (2) preparing for the future.

Question. How are employees designated to receive training?

Answer. Employees are, in general, designated to receive training by their supervisors. In some cases involving training in basic core competencies, a request is reviewed and approved by senior staff responsible for managing overall training in a specific broad area such as adjudication practices and procedures for administrative judges. For other specific, one-time courses, a supervisor may directly approve training.

TRAVEL

Question. There is a marked increase in travel costs between fiscal year 1996 and fiscal year 1997, and another increase for fiscal year 1998. What is the justification for these increases?

Answer. The majority of MSPB travel cost is for administrative judges' travel to hearing sites, both in the continental United States and outside. The travel amount in the budget submission for fiscal 1996 is actual; the amounts for fiscal 1997 and 1998 are estimates. We are working to use technology to reduce travel costs. We have tested video conferencing equipment for use in hearings, conferences, and other meetings. Our initial testing indicates that it will provide good interaction while reducing transportation, hotel, and subsistence expenses. It will also cut back on indirect costs associated with travel, including lost work time. However, currently increased travel costs reflect a number of factors such as higher travel and hotel rates, travel costs related to installation of the wide-area network connecting MSPB regional, field and headquarters offices, and costs associated with relocating staff to fill important vacancies or to move staff as offices are closed as part of our downsizing and reengineering initiatives.

Question. Was all travel by MSPB employees in fiscal year 1996 and so far in fiscal year 1997 absolutely necessary for the completion of the agency's mission?

Answer. The majority of MSPB travel expense is for administrative judges to conduct hearings which are held throughout the world and sometimes last several days. The rest is to support the agency's mission by attending conferences to discuss legal issues and our study reports with the Federal personnel community and other interested parties and for routine administrative and supervisory functions.

THE CIVIL SERVICE RETIREMENT AND DISABILITY TRUST FUND

Question. The Merit Systems Protection Board has statutory authority to draw down from the Civil Service Retirement and Disability Fund, up to a certain limit. What are the statutory limitations for use of trust fund monies?

Answer. 5 U.S.C. 8348 authorizes payment from the Civil Service Retirement and Disability Trust Fund to the MSPB, subject to annual limitation established by Congress, for expenses incurred in administering appeals in retirement cases under 5 U.S.C. 8347(d) and 8461(e)(CSRS and FERS cases). The annual limitation is established as part of the Treasury-Postal Service appropriation. For fiscal year 1997, the Trust Fund limitation is $2,430,000.

Question. Does MSPB maintain records of the utilization of those funds?

Answer. Records of the annual amounts are available. The amount of the limitation on use of the Trust Fund since fiscal 1993:

Year	*Amount*
1993	$1,950,000
1994	1,989,000
1995	2,250,000
1996	2,430,000
1997	2,430,000
1998	2,430,000

The amount has gradually grown over the years as costs and workload have increased. MSPB expenses often exceed the Trust Fund limitation. For example, in fiscal year 1996, the MSPB spent $2,522,00 in adjudicating retirement cases, $92,000 more than we were reimbursed from the Trust Fund.

Question. If approved for fiscal year 1998, specifically how will the $2.43 million from the trust fund be allocated?

Answer. The majority of the funds will be allocated to the ten regional and field offices which adjudicate the initial appeals submitted to MSPB. Lesser amounts will be allocated to the Office of Appeals Counsel and the Board offices that adjudicate the petitions for review from the initial decisions. Funds are also allocated to the Office of the General Counsel for handling appeals to the U.S. Court of Appeals for the Federal Circuit.

STRATEGIC PLANS

Question. Under guidance by OMB, agencies are to have their initial strategic plans to OMB by August 15, 1997, and to Congress by September 30, 1997. Prior to the submission of the initial plan, agencies must consult with Congress in developing this strategic plan. The Committee on Appropriations has not yet seen a draft strategic plan from MSPB. When can we expect to see a preliminary draft strategic plan?

Answer. We expect to deliver a draft to the Committee on Appropriations and other Congressional committees by the middle of July. The Results Act requires agencies to meet with stakeholders, those interested in or affected by their programs. At the end of May, we met with MSPB stakeholders in two focus groups, and we are currently evaluating their comments and revising our strategic plan in light of their comments and recommendations.

Question. What is the timing for consultation with Congress on the MSPB strategic plan?

Answer. At the request of Chairman Mica, Subcommittee on Civil Service, House Committee on Government Reform and Oversight, we provided a copy of an early draft of our strategic plan. We are reconsidering our plan in light of their reaction to the draft. We will be happy to meet with you, and other committees, now, or later, after we have revised our initial draft.

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

PREPARED STATEMENT OF JOHN W. CARLIN, ARCHIVIST OF THE UNITED STATES

I would like to set our 1998 request in context with a brief review of the unique and critical mission of the National Archives and Records Administration (NARA), the challenge of carrying out that mission in 1998, and the structure of our current budget. I would then like to discuss the specific priorities outlined in the President's 1998 request.

First of all, while we are very small in the context of the Federal budget, the National Archives and Records Administration is a public trust on which our very democracy depends. It enables people to inspect for themselves the record of what government has done. It enables officials and agencies to review their actions and helps citizens hold them accountable. It ensures continuing access to the essential evidence that documents the rights of American citizens, the actions of federal officials, and the national experience.

Ready access to essential evidence is critical for upholding the faith of the American people in their system of government. We need look no further than the headlines about "Nazi Gold" to see the importance of preserving records and making these accessible for public examination. The entire world is focused on the impact that open, accessible Federal records are having on writing this latest chapter of the Holocaust tragedy.

But it's the records that don't get the headlines that we also need to support—the military service records from which we answer 2 million reference requests a year from veterans, the Census and Ship Passenger Arrival records that hundreds of thousands of citizens pour over each year to trace their family histories, and the sampling of digitized records that we now make available on the Internet that are being accessed by thousands of students, teachers, and citizens each month. The American people rely on our records, have a right to our records, and we must be vigilant in preserving and providing access to those records.

As President Herbert Hoover said, upon laying the cornerstone of the National Archives Building, on February 20, 1933, "Here will be preserved all the records that bind State to State and the hearts of all our people in an indissoluble union." Every time I look at the three founding documents of our country—the Declaration of Independence, the Constitution, and the Bill of Rights—which we preserve on public view in the rotunda of that building, I feel an awesome responsibility to the citizens of this country. Serving as a public trust, which the National Archives does, is no insignificant matter.

To provide ready access to essential evidence for citizens, the National Archives and Records Administration maintains a national system of facilities and programs. In addition to our central National Archives facilities in downtown Washington and College Park, Maryland, NARA operates fifteen regional offices, two Presidential materials projects, and nine Presidential libraries. We also publish the Federal Register, maintain the Center for Legislative Archives, oversee the Information Security Oversight Office, make grants through the National Historical Publications and Records Commission, and annually host more than two million visitors to the Charters of Freedom and other exhibits of documentary treasures in our downtown facility, the Presidential libraries, and other facilities across the nation.

While unquestionably important, the mission of the National Archives and Records Administration is increasingly difficult to carry out due simply to the unceasing passage of time. As I often remind people, we are in a perpetual growth industry—we can't drop off a century of our history as we add a new one to the books. Everyday more records are created and new history is being made. And while the era of big government may be over, government downsizing with shut downs of federal programs and military base closures simply means that we receive records this year that we thought we wouldn't receive until 25–30 years from now. When government grows, archives grow, and when government shrinks, archives grow. No matter what the size of government, records continue to be created and require proper management every day.

This relentless growth has forced us to devote nearly half our total budget for space just to store our records. Our large, costly space requirements represent an ever increasing percentage of our budget to the point where building rents and mortgages are eating up 45 percent of our budget, and when combined with personnel costs, the total is 90 percent of our operating expenses. That leaves us just 10 percent for preservation costs, information technology, printing, training, technology improvements, communications services, travel and everything else. That is why the guarantee of our base is so important.

However, we do not expect this committee to support the base or our 1998 priorities on blind faith. When I took over this position two years ago, I didn't accept the contention that the National Archives and Records Administration was doing everything that it could to make the most effective use of its existing resources and I initiated a comprehensive strategic planning process to examine just how we were using our internal resources and how much more efficiently and effectively we might be able to carry out NARA's critical mission. Based on that effort we issued a strategic plan in August of last year and are concentrating on the priorities from that plan during this year.

First of all, to implement the plan we must develop the infrastructure to carry it out. We have begun by instituting a two-stage reorganization to improve communication, reduce bottlenecks, end overlaps, clarify individual unit responsibilities, establish who will be accountable for what and speak with one voice in providing guidance and implementing policies. The new structure has reduced the number of offices and combined related functions to improve services to federal agencies and the public and to provide more records management assistance to agencies up-front, at the time they create their records.

Our remaining priorities for the year include bringing the plan into full compliance with the Government Performance and Results Act as a basis for budget requests beginning with fiscal year 1999. Further we are initiating a dialogue with our federal agency partners on how we can work together better to improve government records management and ensure that essential evidence is cared for from its creation to its final disposition. We also will continue our construction of a nationwide, integrated on-line information delivery system that educates citizens about NARA and its facilities, services and holdings; makes available digital copies of high-interest documents; and contains an on-line ordering capability. In these ways we are increasing our ability to provide the public with ready access to essential evidence. And this year I can say to you as well that we are now implementing a plan for doing so with greater economy, efficiency and effectiveness.

1998 REQUEST AND CHANGES FROM 1997 APPROPRIATED FUND LEVEL

NARA's 1998 request for appropriations for operating expenses is $206,479,000, a net increase of $9,210,000 over the adjusted 1997 appropriation of $197,269,000. This budget reflects the continuing need to protect our base in the face of four unavoidable budget mandates and to fund clear priorities in the areas of space, technology and preservation.

The overall appropriation request includes decreases of $306,000 for one-time costs in 1997 for the reappropriation of unobligated balances from fiscal year 1996 appropriated funds (which is to be made available in 1997), and $392,000 for Rent for the Bush Presidential Materials Project. The Bush Presidential Library is scheduled to open in the latter part of fiscal year 1997. Therefore rental space will be vacated when that move is completed.

These decreases are offset by four unavoidable budget mandates. The first three are $2,314,000 for the 1998 pay raise; $1,055,000 for facility rate changes which include utility and contract cost increases; and, $1,300,000 for the operation and maintenance costs for the new Bush Presidential Library. The latter costs are the responsibility of NARA once the facility is completed and turned over to the Federal Government. This funding will provide for guards, custodial services, mechanical services, elevator maintenance, fire and security, alarm maintenance, and utilities. The fourth unavoidable budget mandate is the $1,319,000 requested in the budget to convert many of NARA's intermittent employees to regular full-and part-time employment. Much of the work now being performed by NARA's intermittent employees should be performed on a full-or part-time basis. Intermittent employment is appropriate only for work that is sporadic and irregular. Heavy use of intermittents was a legitimate employment approach for a period in the Agency's history, but no longer. This change will not increase FTE for NARA but will require the funding necessary to cover the Federal employment benefits these employees will become entitled to when they are placed on full-or part-time work schedules.

Now to our priorities. Adequate space and properly maintained facilities are our first line of defense to preserve our records and our history. We must provide proper storage for the valuable holdings entrusted to us. We also must maintain our facilities in proper condition for public visitors, researchers, and employees. And we must maintain the structural integrity of the buildings. In the fiscal year 1996 appropriation, the Congress established the Repairs and Restoration account to enable NARA to provide ongoing repairs, alterations, and improvements to Archives facilities and Presidential Libraries and to provide adequate storage for holdings nationwide. Requirements in 1998 are $6,650,000—a decrease of $9,579,000 over the amount pro-

vided in 1997. The $6,650,000 includes $2,750,000 for such repairs as chiller replacement, roof replacement, elevator repair and replacement, plumbing, air handlers, security systems, humidification and de-humidification systems, lighting, and drainage.

This year we are requesting an additional $1,800,000 for moving expenses to vacate the New York Federal Records Center which is located at the Army's Military Ocean Terminal, in Bayonne, New Jersey. The records center is the largest civilian agency tenant on this base, which is scheduled for closure under the Base Realignment Closure process. The current buildings are old—built during World War I—and are in very poor condition. Requested funding will provide for the relocation from that facility of 1.2 million cubic feet of Federal records and related office support equipment.

The second need under the Repairs and Restoration account is funding to continue the consolidation of other Federal Records Centers throughout the country when it is appropriate and cost-efficient to do so. Other records center facilities, although rather inexpensive to rent, are in extremely poor condition, and totally lack environmental controls. Records stored in these crumbling warehouses are at risk. $2,100,000 is required to consolidate those records.

The budget incorporates two additional initiatives that are necessary for the agency to carry out our new Strategic Plan. First of all, we are requesting $2,000,000 for critical upgrades to and development of NARA's systems for managing records in various formats, but particularly records generated electronically. The request includes funds for expert consulting services and for equipment and communications enhancements to NARA's existing network infrastructure.

Second, our request includes $1,920,000 to begin a five-year action plan to preserve the audiovisual heritage of the United States, documenting the history of the United States from the 1930's to the 1960's. Much of this heritage is in danger of being lost because many of the film images are on an unstable base, and many of the video and audio recordings were made on formats that are now obsolete.

The budget also includes funds for grants that I award on the basis of recommendations from the National Historical Publications and Records Commission. Beginning in fiscal year 1995, the grants program of the NHPRC was separated from the operating expenses of NARA and a new appropriation account was established for the grants. The administration and reference services for the grants program remain part of the operating expenses appropriation for NARA. The grants program is currently authorized through fiscal year 2001. NARA is requesting an appropriation of $4,000,000 in 1998—a decrease of $1,000,000 from 1997. Nonetheless, this request is important to us because NHPRC grants finance research-and-development projects on electronic records, among other things we need, and foster partnership programs with state and local governments, which are trying to care for many records generated by federal programs that are administered by states and localities. NHPRC grants are important to them and to us.

In summary, this small, but vitally important Federal agency has a very large challenge facing it today and into the foreseeable future. Ensuring that the government and the citizen will continue to have ready access to the essential evidence of our history will require an efficient and effective National Archives and Records Administration and the cooperation of the Congress to provide the resources necessary to carry out the task. For 1998, our budget request gives priority to financing the space necessary to adequately house our holdings and serve the public, the electronic infrastructure to manage the life cycle of growing quantities of digital records in particular, and the preservation tools required to protect the audiovisual holdings of the 20th Century that are currently at risk.

Thank you.

QUESTIONS SUBMITTED BY SENATOR CAMPBELL

REPAIRS AND RESTORATIONS

Question. The fiscal year 1997 Appropriation provided $16.2 million for repair and alterations of Archives facilities and the Truman and Roosevelt libraries. On April 15 Archives forwarded to the subcommittee a report on the renovation of the Truman Library. What is the status of the funding? Has the Archives received matching private sector donations to complete the $25.5 million project?

Answer. As discussed in the April 15, 1997, report submitted by NARA, the $4 million provided this fiscal year for the Truman Library will allow the continuation of a complete renovation of the Library's permanent museum exhibits and related improvements to the facility. The April 15 report shows that NARA has a long-range

plan for this project which relies upon both federal funds and the support of the private Truman Library Institute. Now that our report is submitted, we will begin the obligating and contracting process to utilize the $4 million allocated this fiscal year, and continue the renovation.

Regarding private support, the Truman Institute has already raised $5.3 million for the museum renovation. The first phase of the project, which involved major changes to the Oval Office and White House gallery exhibits, was completely paid for by the Institute. Led by new Board members and a strengthened development staff, the Institute intends to raise the remaining amount it has pledged for the renovation and associated educational programs by the year 2000. This schedule is consistent with the overall renovation plan presented by NARA in the report of April 15, 1997.

On June 13, 1997, we also submitted to the subcommittee our report on the renovation of the Roosevelt Library. Regarding private support, the Roosevelt Institute has agreed to raise $4.0 million for the renovation. This will include: design of the Visitors Center and renovations to existing building; furnishing and equipping the Visitors Center and renovated library; partial funding of Visitors Center construction; and, to continue non-Federal fund-raising initiatives which already support Library programs, including planning for replacement of permanent exhibit and development of a new orientation film.

NON-TEXTUAL RECORDS PRESERVATION

Question. The fiscal year 1998 Budget includes a request for $1.9 million for non-textual record preservation as the first increment of a five-year program. What is the total funding level for the non-textual preservation program? Please explain how the $1.9 million will be obligated.

Answer. Initiatives over the five years to preserve nontextual records shall include the following five action steps that are priced below based on our best current knowledge of costs for the various types of services, equipment and supplies. These initiatives will cover the first phase (five years) of a long range preservation plan. Implementation of the initiatives will stay within the $1,920,000 annual total but the costs may change and shift among categories as actual procurements are made and contracts are awarded:

(1) Rent cold storage space off site to store the most valuable and/or most deteriorated records

Provide cold storage for records on acetate and nitrate based photographic film, black and white and color, including still photographic images, motion aerial images and accessioned microfilm. Beginning in fiscal year 1998 and within five years, acquire sufficient archival quality cold storage to move all NARA acetate and nitrate based records into cold storage. The cold storage will extend the usable life of these records, thereby providing time to initiate a long term and cost effective duplication plan. Cost estimates are based on generic lease figures from the General Services Administration. Costs may change when additional cold storage space actually is leased or more cold storage space is configured in NARA's buildings. Costs in the first year (1998) are estimated at $552,000; the cost to maintain this cold storage space in each of years two through five is $370,000.

These costs estimates cover the lease of space, the purchase of shelving, and the expense of moving the records in the first year and continuing leasing costs in the subsequent years. The goal is to provide for storage of 58,000 cubic feet of the most at risk acetate records that are not now in cold storage.

(2) Increase the capacity of the NARA laboratory by purchase of equipment and supplies

Increase NARA preservation lab capacity to duplicate and provide ready access to records in cold storage, and to copy those items so fragile that outside contractors are not available to perform this work. Increased capacity will come from reallocating and retraining agency staff whenever possible and more importantly from the purchase of equipment. Much of the equipment is decades old and modern equipment will support better production. New motion picture duplication equipment will be acquired and the numbers of cameras for copying still photography on polyester roll film will be increased. Equipment costs first year (1998): $600,000; in subsequent years the equipment costs should be minimal unless procurement regulations and procedures delay some purchases.

Lab supplies should increase $300,000 over their current base during the first year (1998) and remain at this level through the following four years. Cost in each of years one through five, $300,000.

The combination of new equipment and increased lab supplies will permit increased preservation copying work on all the major media within NARA. The internal NARA copying operation will work in tandem with the outside contracts described next under action steps No. 3 and No. 5 to meet NARA's most urgent needs for preservation copying.

(3) Mobilize NARA technical and acquisition staff, as well as procuring assistance from contract experts, to write statements of work and establish contracts that, together with expansion of the NARA lab, will greatly expand the preservation effort. NARA plans to contract out copying some audio and video records on obsolete media, to copy nitrate and diacetate negatives in regional archives, to begin preservation duplication in presidential libraries, to copy deteriorating aerial indexes, to begin long term coping of aerial roll film and motion picture film

Let contracts to inspect, clean, and copy aerial photography, still pictures, and motion picture film that are on acetate media and to copy some audio and video obsolete formats. While NARA labs can increase their preservation copying work, they can never with current staffing resources perform all the preservation work necessary for NARA's holdings. Consequently, NARA must let contracts for these preservation efforts. To make sure that the statements of work will be the best possible and will be in place during the second year of the action plan, NARA will utilize the NARA technical and acquisition staff during the first year to prepare Statements of Work (SOW's), technical evaluation criteria, and the other facets of a major contracting effort to establish a series of preservation contracts that become fully effective in the second year and, via the exercise of option years, continue at the same general level through the fifth year of the plan.

Cost in first year (1998), $0: Cost in each of years two through five, $900,000.

These contracts will be addressed to convert obsolete format audio and video records to current formats on more stable base media; to inspect, repair, and duplicate aerial photography and aerial index film; to copy nitrate/diacetate negatives in the regions; to start on the need for preservation copies of still photographs, audio tapes and motion pictures in the presidential libraries; and to inspect, repair, and duplicate motion pictures.

(4) Provide necessary supplies, equipment, and internal reallocation of staff to perform the on going holdings maintenance actions that serve to protect records such as photographic prints, maps, and building plans which will not be copied

Costs for supplies to recan motion and aerial film, to refolder, rejacket, and rebox maps, posters, paper photographic prints will allow staff in NARA's nontextual records branches to perform basic non-lab preservation work on the at risk holdings. A major effort will be made in the first year and will continue at reduced level in the next four years as more of the records go out to contractors performing the preservation duplication work described under action steps No.'s 3 and 5. Cost the first year (1998) $468,000; cost in each of years two through five, $250,000.

(5) Establish an on going program of copying audio and video records on magnetic media, every 20 years as recommended by experts

To schedule, write and let four year contracts to copy as much as possible of the 42,000 video tapes and 61,000 audio tapes that need recopying to ensure no information is lost by the aging process for the magnetic media. The first year there will be no contract cost except to write the statement of work for copying both media in during the next four years. The estimated cost for each subsequent year is $100,000, but—given the many preservation needs indicated under the contracting effort in No. 3—NARA may have to reduce the priority of this action and postpone it beyond this 5 year action plan. Cost the first year (1998) $0; cost in each of years two through five, $100,000. (See attached chart for Preservation costs.)

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION—NONTEXTUAL PRESERVATION REQUEST COSTS—FISCAL YEARS 1998–2002

[In thousands of dollars]

	1998	1999	2000	2001	2002
Cold storage:					
Rent ($25.00 per sq. ft.—conversion=/3.9)	[1] 276	370	370	370	370
Shelving ($3.70 per cu. ft.)	[1] 160	.....	.....	.....	.....
Moving records ($2.50 per cu. ft.)	[1] 106	.....	.....	.....	.....

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION—NONTEXTUAL PRESERVATION REQUEST COSTS—FISCAL YEARS 1998–2002—Continued

[In thousands of dollars]

	1998	1999	2000	2001	2002
Travel	10	.....	.....	.....	.....
Total cold storage	552	370	370	370	370
Equipment:					
Motion picture lab	300	.....	.....	.....	.....
Recording lab	100	.....	.....	.....	.....
Microfilm dupl. lab	.....	.....	.....	.....	.....
Still photo lab	70	.....	.....	.....	.....
Aerial	130	.....	.....	.....	.....
Total lab equipment	600	.....	.....	.....	.....
Contracts:					
Nitrate copying	.....	85	.....	.....	.....
Motion picture:					
Obsolete video	.....	.....	.....	.....	.....
Obsolete audio	.....	.....	.....	.....	.....
Inspection (incr. to existing contract)	.....	150	200	200	200
Dupl. of acetate base film	.....	300	300	300	300
Aerial: Inspection, repair, cleaning and duplication	.....	365	400	400	400
Subtotal	.....	900	900	900	900
Audio and Video: Recopying of audio and video tapes	.....	100	100	100	100
Total contracts	.....	1,000	1,000	1,000	1,000
Supplies:					
Laboratory	300	300	300	300	300
Motion picture (recanning)	338	150	150	150	150
Still photo (jackets, mylar, folder	50	40	40	40	40
Aerial/cartographic (boxes, cans, folders)	80	60	60	60	60
Subtotal (without Laboratory)	468	250	250	250	250
Total Supplies	768	550	550	550	550
Total nontextual preservation	1,920	1,920	1,920	1,920	1,920

[1] Based on 43,000 cubic feet.

PRIVATE SECTOR INVOLVEMENT

Question. What efforts, if any, have been made to encourage private sector involvement in the cost of non-textual record preservation? For example, if aerial photographs made to show the bomb damage in Europe during World War II are used by environmentalists and bomb disposal experts, not to mention the motion picture industry, perhaps they could be encouraged to contribute to preservation costs.

Answer. NARA has made efforts to encourage private sector support for preservation of non-textual records, with rather limited success. At four Presidential Libraries, the private foundations associated with those libraries have provided some support for preservation work on Library holdings, but the support is primarily for textual records and museum items. The Herbert Hoover Library Association, for example, provides approximately $4,000 annually for preservation projects at the Hoover Library from an endowed fund. The Reagan Presidential Foundation funded $1,000

worth of preservation on a portion of Ronald Reagan's pre-Presidential collection at the Reagan Library and purchased audiovisual equipment that is used in small part for preservation work. The Truman Library Institute has provided financial support primarily for conservation of museum objects. The Truman Library Gift Fund also was the designated beneficiary of a special one-time fundraising event associated with the opening of a local movie theater complex in Independence, Missouri—those funds are dedicated to preservation of collections the Library could not otherwise afford. The Kennedy Library Foundation also recently established a preservation fund.

On the other hand, NARA has made other efforts to obtain private sector support for specific non-textual preservation projects without success. During the World War II fiftieth anniversary commemorations, for example, we attempted to obtain assistance from veteran's groups to support copying of photographs and some textual records. Several private organizations have been approached to support preservation copying of the remaining Nuremberg memobelt recordings with no response.

From our experience, and similar experiences among state institutions, the private sector interest is in providing support for exhibits and public outreach projects that can provide a visible demonstration of the corporate involvement, and not support for core functions. While we will continue to seek private support for projects, we believe that this approach is not a viable means of obtaining the funds needed for systematic preservation treatment needed for our non-textual holdings over the long term. First, the private sector appears to consider preservation of Federal records to be a Federal government core responsibility and is more supportive of non-textual preservation needs in the non-Federal sectors. The American Film Institute, for example, has provided grants to archival institutions around the country for preservation of non-Federal audiovisual records. Second, as the question indicates, seeking private support requires identification of specific collections and development of grant proposals that match the interests of the private sector group. Even where we have done this, success is not guaranteed. More important, this approach does not necessarily result in preservation of the records most in need of treatment. We therefore conclude that appropriated funding is an essential base for preservation of non-textual records in NARA custody.

CONSOLIDATION OF EXISTING STORAGE FACILITIES

Question. The fiscal year 1998 Budget includes a request for $2.1 million for the consolidation of existing storage facilities. Please provide information on what centers would be consolidated and where the consolidated facility will be located.

Answer. The National Archives and Records Administration has taken several important steps to manage its records center space requirements on a more cost effective basis while improving the environmental conditions in which it stores all of its records. With the funding requested in this initiative, we will be able to continue meeting these objectives of providing more cost effective and environmentally sound records center space.

While we have not yet reached a final decision as to the next records center consolidation/relocation site(s), we are making great strides in our first relocation effort funded under this appropriation. The move of the New York Federal Records Center to the new site in the Kansas City, Missouri area is estimated (in the report to the Archivist on "Replacing the New York Federal Records Center") to save at least $14 million and as much as $23 million, over the 20-year life cycle, when compared to relocating to a facility in the New York/New Jersey area. While we cannot guarantee the same savings with the $2.1 million, we are looking at significant long term reductions in annual operating expenses. The lessons learned and the experience gained from the move of records from the Bayonne facility to Kansas City, Missouri are serving as a guide as we continue planning for a second relocation in fiscal year 1998 into more cost efficient space. This $2.1 million is critical to accomplish this move.

ANNOUNCED CHANGES CONSISTENT WITH STRATEGIC PLAN

Question. On April 7, 1997, the Archivist announced changes consistent with the Archives Strategic Plan. The announced changes impact Archives management of FTE and hiring personnel. Please explain how these announced changes will assist managers in meeting the Archives goals.

Answer. The personnel resources reallocation policy announced on April 7, 1997, allows the Archivist with the advice of his Leadership Team to review positions as they become vacant throughout the agency and determine whether they will be filled in the program where the vacancy occurred, or whether the resources should be shifted to another program. NARA's strategic plan lays out the functions and ac-

tivities that are most important to carry out the agency's mission. To begin to carry out the vision of the strategic plan without an infusion of new resources requires the redirection of existing resources. To some extent that was done through an agency reorganization in which phase one was completed last January and phase two is expected to be effective January 1998. Programs were combined in a manner that encompass the direction set by the strategic plan, and individual staff members were redirected from activities not included in the forefront of the plan's initiatives. The policy announced in April is a continuation of the attempt to identify resources that can be shifted internally to provide staff with the kinds of skills and abilities needed to confront the kinds of increasingly difficult problems NARA must confront to assist Federal agencies to manage wisely and effectively agency records which continue to grow in volume and technical complexity, and to ensure long term access to these essential records for the Government and the public.

NATIONAL HISTORICAL PUBLICATIONS AND RECORDS COMMISSION FUND

Question. What is the current status of the National Historical Publications and Records Commission fund? Why did the Archives request reduced funding for that grants program in fiscal year 1998?

Answer. For fiscal year 1998 the NHPRC is authorized to receive $10 million in grant funds. The Administration's budget for fiscal year 1998 requests $4 million, which is $1 million less than the actual appropriation for fiscal year 1997, and returns the Commission to the funding level it had in 1979 nearly two decades ago. The reduced-funding request reflects no dissatisfaction with the NHPRC's program or achievements nor does it reflect the great need for grant funds throughout the country. The request is consistent with what the Administration has recommended in the past several years.

AGENCY CONTRIBUTIONS TO CSRS

Question. The President's Budget and the Bipartisan Budget Agreement both assume that agency contributions on behalf of their employees covered by the Civil Service Retirement System (CSRS) will be increased by 1.51 percent. Further, according to the Office of Management and Budget, this increase must be absorbed by agencies, at least in fiscal year 1998. What would be the cost of this proposal at NARA? Would implementation of this proposal require any staffing adjustments?

Answer. The cost of this proposal for NARA is estimated at $580,000. During the last 10 years, NARA's base has absorbed over $23 million dollars for such items as pay raises, Gramm-Rudman reductions, increased space needs, and mandated administrative and personnel reductions. Although we recognize that this is a time of restricted resources throughout the government, NARA does not have discretionary funding to absorb any further cuts. The largest portion of our budget is fixed costs for personnel, space and buildings, and Presidential and Congressional mandates. In fact 45 percent of our budget must go for rent and mortgages, and to maintain, operate and repair our buildings. As such, our only option is to take any new mandates out of existing personnel resources. This will definitely lead to a reduction on our personnel level, and further exacerbate the current problems we have dealing with critical issues relating to the management and preservation of Federal electronic records and the increasing early transfer of government records to NARA due to agency streamlining, closing of military bases, closing of agencies, and ending of programs.

OFFICE OF GOVERNMENT ETHICS

PREPARED STATEMENT OF STEPHEN D. POTTS, DIRECTOR

Thank you for the opportunity to submit a statement in support of the Office of Government Ethics' (OGE) request for fiscal year 1998 resources of $8,265,000 and 84 FTE's. This request represents an increase of $187,000, primarily to meet the expected inflationary increases in rent and personnel costs.

The ethics program in the executive branch is decentralized. Thus, the downsizing and streamlining taking place at many agencies is reducing the resources available to devote to the ethics program. OGE is expected to take up the slack. Agencies will rely more heavily on OGE to assist them in developing innovative program support strategies and educational materials to maintain the quality of the ethics program. Therefore, we expect this increased agency reliance upon OGE to translate into our provision of more services for the same resources previously devoted to the program.

We look forward to that challenge and believe we offer a fiscally and programmatically responsible budget.

The ethics program directed by OGE is part of the basic infrastructure that supports anticorruption and conflict programs within the executive branch of the United States Government. The resources expended by OGE to direct and support prevention and education programs are but a small amount in comparison to the resources expended by those who pursue wrongdoers as well as the resources lost through inadvertent or deliberate misuse. We believe the resources we have requested are those necessary to adequately support a strong ethics program.

FISCAL YEAR 1998

We would like to highlight some of the new and continuing major programs anticipated for fiscal year 1998.

In the ethics education and training area, we plan to continue to develop more off-the-shelf education and counseling materials, including computer based training materials. These materials can be used by agencies with little or no modification, thus allowing them to use their reduced resources elsewhere in the program. Ethics education materials developed by OGE and by agencies are collected in our Ethics Information Center. They are made available to agencies as they develop their ethics training programs. Many of the textual materials can be downloaded and reproduced locally by agencies thus reducing the overall cost to the Government. Additionally, OGE has found an inexpensive source to reproduce first quality copies of OGE-developed video tapes for agency purchase. Finally, many of the materials produced by OGE are available from our WEB site and/or a CD-ROM which is issued twice a year through a subscription.

To continue to strengthen our communications with agency ethics officials, OGE expects to continue its program of the Director's informal brown-bag luncheon sessions with agency ethics officials in Washington, and to expand its program of more direct communication with ethics officials in the region. With regard to the latter, OGE plans to expand the regional development program initiated in 1997 in the New York and Atlanta regions to the Chicago and Denver regions.

The number of nominations to Presidential appointments requiring Senate confirmation is expected to be high particularly during the first half of fiscal year 1998. Consequently, resources devoted to the review of the financial disclosures of these nominees and the resultant conflicts counseling and ethics agreement development will be greater than usual. We will also continue to support agency ethics officials as they provide post-employment counseling to increased numbers of first-term appointees returning to the private sector. Further, we will continue to provide advice and counseling with regard to the executive branch standards of conduct and continue to review individual agency supplemental standards.

OGE desk officers will maintain their day-to-day communications with the agencies assigned to them. This continuing liaison between OGE and agency ethics staffs enables OGE to respond to the needs of the agencies in a timely and accurate manner. In addition, this interaction provides OGE with an early warning that an agency ethics program is deficient or has problems that require specialized attention.

The program review teams will continue to provide evaluations of agency ethics programs to agency heads and ethics officials that will help the agencies identify their programs' strengths and weaknesses. The specific recommendations for program enhancements will be designed to ensure that the integrity of the agency's operations will not be compromised by actual or potential conflicts of interest.

These are just some of the programs envisioned for fiscal year 1998. We are pleased with the past success of the executive branch ethics program and look forward to the challenge of maintaining and enhancing the quality of the program while remaining fiscally conservative.

OFFICE OF PERSONNEL MANAGEMENT

PREPARED STATEMENT OF HON. JAMES B. KING, DIRECTOR

Mr. Chairman and members of the subcommittee: I appreciate very much this opportunity to discuss the request of the President for appropriations for the Office of Personnel Management (OPM) for fiscal year 1998. It may be useful, before reviewing OPM's budget request, to consider the significant changes the agency has undergone in the past 4 years.

When the President noted the end of the era of big government and called on Federal employees to do more with less, OPM responded. our reduction of 48 percent in our full-time equivalent (FTE) level of employment, from the fiscal year 1993

baseline of 6,208 to 3,253 in fiscal year 1998, has led the government and provided an example of the way in which a willingness to make the hard decisions can enable an organization to operate within dramatically reduced funding levels and continue to successfully carry out its missions.

A total redesign of the agency's functions and the privatization of two major programs, training and investigations, have refocused our organization and strengthened our role as trustee and custodian of the merit system. As a result, we renewed our commitment to our core functions including merit systems oversight and the development of work force information. In the investigations privatization, we pioneered the approach of creating an employee stock ownership plan (ESOP) company from an existing unit in a Federal Agency.

In addition, we have transformed a substantial portion of our employment information and staffing services into reimbursable activities. And, as government has been downsized, we have accepted significant governmentwide responsibilities by coordinating career transition efforts through our interagency advisory group of personnel directors. Our investment in technology has paid dividends in the form of a steady improvement in customer service in our employee earned benefit programs.

The President has now challenged all of us to be committed to a new kind of Government and to build on the Vice President's efforts to make our Government work better even as it costs less. OPM is prepared to meet that challenge.

The total OPM request of $12.9 billion includes appropriations which are 2 percent discretionary and 98 percent mandatory. For our two discretionary appropriation accounts containing general funds and trust funds, we are requesting a total of $186.2 million. Our request for our three mandatory payment appropriations totals an estimated $12.7 billion. Permit me to describe each of these in more detail.

Our request for basic operating expenses from general funds totals $85.4 million and 777 FTE's, a decrease of $1.9 million and 70 FTE's from fiscal year 1997. This is largely attributable to the success of our ongoing effort to transition many of our employment services, including testing, examination development, and employment information, to a fee-for-service basis. We expect to complete the process this fiscal year.

Despite these reductions, we plan to invest approximately $4.5 million in information technology enhancements during fiscal year 1998. Through a phased implementation of our integrated information technology architecture and migration plan, we will not only comply with the requirements of the information technology management reform act, but also enable OPM to maintain its leadership role in the development, implementation, and communication of personnel management policies throughout the Federal community.

We also intend to extend our leadership role in the application of technology to crosscutting human resources concerns, both through the development of new approaches to governmentwide electronic personnel recordkeeping and by exploring the feasibility of extending the technology we apply to our internal operations (particularly electronic imaging) beyond OPM. There is, we believe, an opportunity for significant cost savings for all Federal agencies by reducing the labor intensive nature of the human resources function.

For the administration of the retirement and insurance programs for Federal employees, we are seeking $91.2 million in transfers from the trust funds and 1,431 FTE's, a decrease of 10 FTE's from fiscal year 1997. Our efforts over the next 2 years will be concentrated on the redesign and modernization of our benefits systems to provide our customers with a greater variety of services and to improve the speed and accuracy of all of the services we offer.

Although it will be discussed in greater detail in a separate statement, it should be noted that the request for OPM's office of the inspector general (OIG) is, again this year, for $9.6 million and 103 FTE's. This includes about $1 million in general funds and $8.6 million in transfers from the trust funds.

OPM also provides a variety of services that are financed by payments from other agencies through the revolving fund. For ongoing revolving fund programs, the fiscal year 1998 budget includes an estimated $174.6 million in obligations and 770 FTE's to be financed by other agencies in exchange for OPM's services. The employment service provides employment information and automated staffing services, and conducts testing for the department of defense using the revolving fund. In addition, OPM operates its management and executive training programs, provides consultative services on human resources management, and manages the investigations program using the ESOP contractor (U.S. Investigations Service, Inc.) to conduct field investigations, along with the remaining employees of OPM's investigations service who are responsible for the integrity, security, and privacy interests in the program. It is important to note that we have reversed a 10-year trend of higher

deficits in our revolving fund through a combination of tough management decisions, tighter financial controls, increased accountability, and downsizing.

As always, the OPM budget request includes mandatory appropriations to cover the Government's contributions to the Federal employee life insurance and health benefits programs on behalf of annuitants, since those enrollees have no employing agencies to contribute the Government's share for them. The difficulty in predicting the needed amounts with precision obliges us to request a "such sums as may be necessary" appropriation for each of these accounts. For the 284,000 nonpostal annuitants retiring after 1989 and electing post-retirement life insurance coverage, we estimate that $32.4 million will be required, while an estimated $4.3 billion will be necessary to finance the Government's contribution toward health benefits coverage for the 11.8 million participating annuitants.

In addition, as required under the system of financing established by Public Law 91–93 in 1969, we are requesting a "such sums as may be necessary" appropriation for the civil service retirement and disability fund. This payment, estimated to be $8.3 billion, represents the 30-year amortization of liabilities resulting from changes since 1969 (principally pay increases) which affected benefits.

It is also important to note that we have included once again in the general provisions the legislative language necessary to ensure that Federal blue-collar workers receive pay adjustments that parallel those granted their white-collar counterparts. For fiscal year 1998, the President's budget proposes an increase of 2.8 percent. The appropriate distribution between a national pay raise and locality pay will be determined following discussions with employee organizations and other interested parties.

Thank you. I would be pleased to provide any additional information for the record that the subcommittee may require.

PREPARED STATEMENT OF HON. PATRICK E. MCFARLAND, INSPECTOR GENERAL

Mr. Chairman and members of the subcommittee: Thank you for providing me with this opportunity to discuss the President's fiscal year 1998 request for appropriations for the Office of the Inspector General. The total request for the office of the inspector general is $9,605,000, which equals the amount appropriated in fiscal year 1997. Of this amount, $960,000 is from the salaries and expenses/general fund and $8,645,000 is from the trust funds. In addition, we plan for $150,000 in advances and reimbursements.

The Office of Inspector General recognizes that oversight of the retirement and insurance trust funds administered by the Office of Personnel Management is, and will be, its most significant challenge. These trust funds are among the very largest held by the United States Government. Their assets totaled $417.8 billion in fiscal year 1996 and their annual outlays were $57.6 billion. The amounts of their balances alone are material to the integrity of the Government's financial position. I have allocated 90 percent of the Office of Inspector General's efforts and resources to trust fund oversight, and I believe that we are now as fully committed to trust fund work as is possible within the context of our current resource structure.

Outlays from the OPM retirement trust funds are made in the form of payments to millions of annuity recipients. The health insurance trust fund provides payments to approximately 500 health insurance carriers nationwide. In turn, the health insurance carriers pay millions of claims for services filed by their enrollees and health care providers. Such payments are highly susceptible to fraud. Studies by law enforcement agencies, the general accounting office, and industry groups have consistently projected that substantial amounts will reflect improper, inaccurate, or fraudulent payments. We owe an affirmative obligation to Federal employees and annuitants to protect the integrity of their earned benefit programs, and to the Federal agencies and the American taxpayers who provide the majority of the programs' funding to reduce losses due to fraud and impropriety and to recover misspent funds whenever possible.

Working with limited resources, the Office of the Inspector General has achieved an impressive record of cost effectiveness in combating fraudulent activities. Audits and investigations of the trust fund programs have resulted in significant financial recoveries to the funds and commitments by program management to recover additional amounts. In fiscal year 1996, we achieved a total financial impact of approximately $71.8 million, which is one of the largest such figures in the Federal inspector general community. This equates to $7 in funds returned for each dollar appropriated to OIG by congress.

Our responsibilities for combating fraud and promoting efficiency in the trust fund programs will not diminish in future years. In fact, the retirement and insur-

ance service's workloads are likely to grow in fiscal year 1998 and beyond, generating the need for intensified audit and investigative efforts on our part.

The Federal Employees Health Benefits Program (FEHBP) is the largest employer-sponsored health insurance program in the United States—providing health benefits to over 9 million persons, and is the third-largest federally funded health care program, after Medicare and Medicaid. It has increasingly been cited as a model of the way a health insurance program can offer a wide choice of coverage options while controlling cost increases. Oversight responsibility for a program of this size and significance requires my office to devote every effort toward achieving recognition as a nationwide leader in fighting health care fraud. Our priority for 1998 is to enhance our ability to accomplish this goal. We are seeking to have the FEHBP included as a full participant in the health insurance portability and accountability act of 1996. Through an apparent misunderstanding of the nature and structure of the program on the part of the drafters of the portability act, FEHBP has been inadvertently excluded from most of the remedial and civil enforcement authorities for health care fraud which were made available to other Federal heath care programs. This not only has the effect of drastically limiting our capacity to combat fraud, but also reflects an unjustifiably inferior treatment of the health care interests of Federal employees and annuitants.

Separate and apart from this proposal, we will also seek changes to the FEHBP Amendments Act of 1988 to allow OPM the same ability to impose administrative sanctions, in the form of debarment and civil monetary penalties, against health care providers who defraud FEHBP as is already available to other Federal health care programs. The principle at issue here is similar to the exclusion of FEHBP from the Portability Act. The 1988 legislation placed procedural requirements on OPM's sanctions authority which were far more restrictive than those which apply to programs such as Medicare and champus. The result was that it has not been feasible for OPM to take administrative action against providers, even in cases where fraud has been clearly established, unless other agencies had previously sanctioned them. This has left FEHBP programmatically, and its enrollees personally, with a decidedly substandard degree of protection against fraudulent or improper actions on the part of health care providers. This concludes my prepared remarks. I will be pleased to respond to any questions which you may have.

QUESTIONS SUBMITTED BY SENATOR CAMPBELL

TRUST FUNDS—ADMINISTRATIVE EXPENSES

Question. The Office of Personnel Management has statutory authority to drawdown from various trust funds, up to a certain limit set by Congress. In fiscal year 1998, OPM is requesting $85.385 million in appropriated funds and a total of $91.2 million transferred from trust funds—$78.9 million from the Civil Service Retirement and Disability Fund, $11.7 million from the health benefits fund, and $609,000 from the life insurance fund. What are the statutory limitations for use of trust fund monies?

Answer. Title 5, United States Code, (section 8348(a)(2) for the Civil Service Retirement and Disability Fund, section 8909(a)(2) for the Employees Health Benefits Fund, and section 8714(a)(2) for the Employees' Life Insurance Fund) sets forth the basic terms and conditions under which the Office of Personnel Management (OPM) can draw against these funds to cover administrative expenses. Specific spending limitations, authorities, and restrictions are contained in the annual Treasury, Postal Service, and General Government Appropriations Acts passed by Congress.

Question. Does OPM maintain detailed records of the utilization of those funds?

Answer. Yes, OPM's financial management system tracks administrative expenditures for each of the employee benefit program trust funds on what is essentially a transaction basis.

Question. What protections are in place to prevent cross-subsidization of other OPM activities?

Answer. OPM's financial management system prevents cross-subsidization by linking, to the maximum extent possible, specific transactions to specific fund sources. In those instances where this is not possible, the OPM Chief Financial Officer distributes costs in accordance with established formulas. In recent years, the agency's accounting and procurement systems have been refined to the point where only a small percentage of its costs are allocated in this manner.

USE OF TRUST FUNDS BY INSPECTOR GENERAL

Question. Since the Office of Inspector General also receives transfers from all three trust funds, who conducts audits to ensure appropriate use of trust fund monies?

Answer. The Office of the Inspector General (OIG) receives 90 percent of its operating resources through transfers from the OPM administered trust funds. These funds are used to perform audits and investigations of the Federal Employees Health Benefits Program, the Civil Service Retirement and Federal Employees' Retirement Systems, and the Federal Employees' Group Life Insurance Program. The OIG has achieved significant positive financial impact in these employee earned benefit programs. This positive financial impact was $71.8 million in fiscal year 1996 and for fiscal year 1992 through fiscal year 1996, our results exceeded $309 million.

The OIG does not perform any ongoing financial management or accounting functions in-house except for budget execution and formulation activities. These functions are the responsibility of the Office of the Chief Financial Officer (OCFO) for all OPM program offices, including the OIG.

However, the Chief Financial Officers Act does require that the OIG perform annual audits of OPM's financial statements prepared by the OCFO. The audits of the fiscal year 1996 trust fund financial statements were recently completed by an Independent Public Accountant (IPA). The OIG worked closely with the IPA and provided the oversight and coordination necessary to ensure that the audits were completed in a proper manner.

The intermingling of IG and agency funds is such that an IG opinion on audited financial statements does not reflect specifically on the OIG's appropriated monies from the fund.

HEALTH BENEFITS—GOVERNMENT CONTRIBUTION

Question. One of the responsibilities of the Retirement and Insurance Service is the administration of the Federal Employees Health Benefits Program. This program benefits current Federal employees and their dependents as well as retired Federal employees and their dependents.

The formula now in place for determining the Government's share of FEHB premiums contains a proxy or phantom component to replace one of the so-called "Big Six" which left the program in 1989. That phantom formula will expire at the end of 1999.

What would be the impact on employees of the elimination of the phantom component of the existing formula?

Answer. The estimated impact on enrollees of the expiration of the Phantom formula and a subsequent switch to a Government contribution based on the remaining "Big Five" would be a monthly increase of approximately $23 per enrollee. The shift in costs from the Government to enrollees would amount to approximately $900 million annually.

Question. Is OPM currently developing a different formula to propose to Congress?

Answer. At the request of several Members of the House of Representatives, we provided technical assistance in developing a "Fair Share" proposal that was included by the Committee on Government Reform and Oversight in its final reconciliation package. We are providing similar assistance to the Senate Committee on Governmental Affairs.

IMPACT OF INCREASED AGENCY RETIREMENT CONTRIBUTIONS

Question. The President's budget and the Bipartisan Budget Agreement both assume that agency contributions on behalf of their employees covered by the Civil Service Retirement System (CSRS) will be increased by 1.51 percent. Further, according to the Office of Management and Budget, this increase must be absorbed by agencies, at least in fiscal year 1998. What would be the cost of this proposal at OPM?

Answer. In fiscal year 1998, this proposal would cost OPM an estimated $1.7 million including reimbursable programs. About half of these costs will be offset because of a reduction in Federal Employees' Retirement System (FERS) normal costs, effective October 1, 1997.

Question. Would implementation of this proposal require any staffing adjustments at OPM?

Answer. No.

Question. As the Government's personnel agency, has OPM developed any estimates of the impact of this proposal on the staffing levels of various agencies?

Answer. No. Each agency is responsible for managing to budget and communicates the effect of financing changes on staffing plans to the Office of Management and Budget and Congress through the budget process.

Question. Do you have any reason to believe that implementation of this proposal would result in massive reductions-in-force?

Answer. No about half of the costs Governmentwide will be offset by the October 1, 1997, reduction in FERS normal costs. Where reductions in staff are necessary, agencies should be able to accommodate this additional cost through attrition. However, when combined with other funding reductions, some agencies may be forced to consider reductions-in-force.

Question. Would this proposal result in efforts to "encourage" employees covered by CSRS to retire earlier than planned?

Answer. CSRS employees will not be targeted, because they will still cost the agencies less than FERS employees. However, some agencies may offer early outs to encourage increased attrition.

INVESTIGATIONS PRIVATIZATION

Question. There was much controversy in 1995 and 1996 over the plan to privatize the background investigations responsibilities of OPM. At that time, many feared that the Federal Government would lose control over sensitive information and that, over time, costs would rise.

It is almost one year since the investigations unit was converted to an Employee Stock Ownership Plan with the creation of U.S. Investigations Services, Inc. What is the status of this program?

Answer. The ESOP company, U.S. Investigations Services, Inc., has been able to continue completing work for OPM's customers on a timely basis with no deterioration in the quality of the product. OPM has continued to provide oversight of agencies' personnel security programs and provide assistance to agencies as needed.

Question. Is it working?

Answer. The ESOP company, US Investigations Services, Inc. has been quite successful. It has exceeded its first year projections in obtaining non-OPM work and, has hired a number of new personnel as well as individual contractors to meet the continuing Federal workload demand from OPM.

Question. Has sensitive information remained secure?

Answer. OPM continues to be the requester of Federal law enforcement information from the Federal Bureau of Investigations. Release of information to requesters continues to be strictly controlled by OPM through the Federal staff, which has maintained a presence at our facility in Boyers, Pennsylvania. We have not found any contractor staff in violation of the Privacy Act. Anyone found in violation will be immediately prohibited from working for OPM under the Federal contract.

The Personnel Investigations Processing System continues to be controlled and maintained by Federal employees of OPM. Access to the data base is strictly controlled by OPM and we have kept sensitive information secure.

Question. Is the Federal Government saving any money?

Answer. Significant long-term savings have already been achieved by removing over 600 personnel from the Federal retirement system. Savings have also been achieved through the company moving from advance payments to performance payments for work completed for OPM some six months ahead of the contract schedule.

Savings have also been achieved by OPM not having to raise prices to its customers. At a minimum, OPM expects to be able to hold the line on future price increases.

USE OF ANNUAL LEAVE TO REACH RETIREMENT ELIGIBILITY

Question. The fiscal year 1997 appropriations bill contained a provision which allows Federal employees who are involuntarily separated to utilize unused annual leave in order to reach retirement eligibility. Has this authority been utilized to any great degree?

Answer. Information on the use of annual leave to attain retirement eligibility is not captured in our automated records. A review of our paper files to obtain an exact count of the persons taking advantage of this provision would be cost prohibitive. Our benefit specialists report it has been used by very few of the approximately 5,000 involuntary retirements we expect to process this year.

U.S. POSTAL SERVICE

PREPARED STATEMENT OF MARVIN RUNYON, POSTMASTER GENERAL/CHIEF EXECUTIVE OFFICER

A quarter century ago, the U.S. Postal Service was commissioned by Congress to fulfill two distinct, yet vitally important, mandates.

First, to be a fundamental service to the people. To bind the nation together with a communications network accessible to all. To provide postal services in every community. To deliver to everyone, everywhere, every day.

Second, to serve the people like a business. To make use of the most modern management tools and technologies available. To render high-quality, low-cost products and services that can stand on their own in the marketplace. To be financially stable and self-supporting.

Today, I am pleased to report that we are fulfilling these mandates in an historic way.

Our national network has never been stronger. Last year, we delivered 183 billion pieces of mail to 128 million locations, both all-time highs. We are keeping our 38,000 post offices open longer, and we are offering a broader array of services to our nation than ever before.

At the same time, we are delivering results that any business would be proud of.

The past two years have been the most profitable in our history—by far. We ended 1996 with a net income of $1.6 billion. That followed on the heels of the historic $1.8 billion we earned in 1995. The combined surpluses of these two years is $3.4 billion, more than the total net income of the past 23 years put together.

We have put that money to good use. In the past two years, we have lowered prior year losses by more than half. Earlier this year, we also put forward the most ambitious capital investment program in our history. That includes $14 billion over the next five years in new technologies and facilities that will help us cut costs and improve service.

Our financial picture has remained healthy in 1997. Through May 23, our net income for the year stands at $1.34 billion. That is $322 million ahead of expectations. Our revenues are $362 million below our plan, but we have made the necessary adjustments to cut expenses and come out ahead on our aggressive bottom line. Net income traditionally erodes during the lighter mailing months of the summer. However, we expect to end the year solidly in the black, only the second time in the past quarter century that we have had three straight years of positive net income.

The Postal Service, however, is facing a loss of $1.4 billion in 1998 and rising red ink beyond. It also has accumulated losses of $2.6 billion still to repay. The Governors of the Postal Service are considering their options on future postage rates. A decision is expected soon.

Mail service continues its upward climb. The Postal Service has once again set a new service record for local First-Class Mail service. Last week, we announced that independent measurements by Price Waterhouse confirm that 92 percent of local First-Class Mail was delivered overnight during the third quarter, March 1 to May 23. That is our highest score ever, and it is thirteen points higher than where we stood three years ago. The credit for this performance milestone goes to our managers, supervisors, and craft employees. Once again, they pulled together and pulled off a new service record.

Local mail service helped lead the way. We have promised to make the nation's capital a model for mail service. We have made great strides. Southern Maryland and Northern Virginia set new performance records with scores of 94 percent and 93 percent, respectively. And Washington reached 90 percent, its second highest mark ever. Baltimore's score also jumped six points, from 85 to 91 percent.

For the second straight quarter, the nation's four largest cities also finished at 90 percent or better. Los Angeles and New York each tied the national mark of 92 percent. Chicago and Philadelphia both scored 90.

Despite its recent success, the Postal Service finds itself in an increasingly vulnerable position. On the one hand, our costs are growing several billion dollars a year. On the other hand, each of our services is feeling the pinch of competition. Market share is either flat or declining in four of our six major product areas, including correspondence and transactions, expedited mail, ground packages, and international. And while overall mail volume continues to grow, the rate of growth is eroding. We have gone from gains of 5 percent on average each year in the 1980's, to increases of just 2.2 percent so far in the 1990's. And last year, our growth was an anemic 1.1 percent.

We are responding with bold, sweeping changes to prepare this organization for the 21st century. We are applying modern management techniques like process

management and re-engineering to our operations. We are investing in employees with effective new training initiatives. We are putting more technology in our plants so that we can complete our letter mail automation program by next year. And we are developing the next generation of equipment like robots and advanced tray management systems. They're bringing us closer to our goal of a fully automated working environment.

We are improving as quickly as we can, because we realize that what is at stake is the survival of a great American asset—universal mail service. Every dollar we save and every dollar we take in contributes to our financial well-being and our ability to continue our historic mission. It allows us to keep thousands of small post offices open for business. And it enables us to send our letter carriers to every doorstep and mailbox in America, whether you live in the Washington suburbs or somewhere north of Nome, Alaska.

As you know, the Postal Service receives no tax money from the federal government, except for reimbursements for services mandated by Congress.

Today, the Postal Service requests a total appropriation of $121,124,000 for fiscal year 1998. Of that amount, we request $86,274,000 for revenue forgone for free and reduced postage rates for certain types of mail, as set forth by Congress. Most of this amount—$55,296,000—reimburses the Postal Service for the costs of providing free mail for the blind and overseas voting.

The Postal Service also requests $29,000,000 to reimburse past year shortfalls in revenue forgone funding. This request is the fifth payment in a series of 42 annual payments authorized for this purpose in the Revenue Forgone Reform Act.

Consistent with the law, our request includes a net reconciliation adjustment to appropriations in previous years. Each year, appropriations for free and reduced rates are based on estimated mail volumes. When final audited mail volumes become available, these figures are reconciled with the estimates.

Our request for $1,978,000 covers adjustments through fiscal year 1995. We note that funding for our fiscal year 1997 request of $12,384,000 was deferred by Congress. In the meantime, final audited mail volumes for fiscal year 1995 indicated that an excess of $10,406,000 was received for that year. That excess is accordingly returned to the government, and is reflected in the net request for the coming fiscal year. The President's budget agrees with our request for current revenue forgone funding, but makes no provision for covering last year's revenue forgone reform reimbursement shortfall.

Our request also includes an appropriation of $34,850,000 to cover workers' compensation payments for employees of the old Post Office Department. This appropriation funds the compensation paid to 1,828 individuals or their survivors for injuries which occurred before July 1, 1971. These expenses are directly related to the operations of the former Post Office Department and remain a liability of the U.S. Government. When received, these funds are paid directly to the Department of Labor.

It should be noted that this appropriation is not, in any way, a subsidy to the Postal Service. Every one of the compensation cases predates our first day of operation. The responsibility of the U.S. Government for these Post Office Department liabilities is set forth in the legislation that established the Postal Service.

Unlike the former Post Office Department, which was supported by annual appropriations, the Postal Service was chartered to become a self-supporting enterprise, financed out of its own revenues. Congress recognized that this would never happen if the years of deficits recorded by the former Post Office Department were passed forward to future mailers.

To prevent this, Congress built a firewall between the liabilities of the former Post Office Department and the operations of the new Postal Service. Secure beyond that firewall, the Postal Service could attain financial stability. It could charge fair and reasonable postage rates based on the current cost of serving present-day customers. And it could obtain financing at realistic market rates for capital improvements.

To reduce the federal deficit, the President's budget recommends the transfer of these Post Office Department liabilities to the Postal Service. This could require us to accrue immediately the full future cost of these liabilities, some $240 million. That would do harm to our financial status and impact the cost of postage.

We strongly believe that the firewall between our activities and those of the Post Office Department should be maintained. To do otherwise, and ask today's mailers to absorb liabilities that date back more than a quarter of a century, would be a breach of the legislative contract Congress signed with postal customers.

Finally, an annual public service appropriation of $460 million, authorized by law, is not requested. We have not requested nor have we received it since 1982. By not using these funds, the Postal Service and this Committee have saved the Federal

Government $6 billion. We see this as a good faith effort to honor the legislative contract that made the Postal Service a self-supporting government establishment.

We remain committed to upholding another important part of that contract—universal mail service. It is a cornerstone of democracy, a vital ingredient in social life, and a linchpin in our economy. We hope and trust that we have your support in fulfilling this mandate.

QUESTIONS SUBMITTED BY SENATOR CAMPBELL

Question. What are the primary reasons why the Postal Service wants reform? What is the Postal Service trying to accomplish?

Answer. The existing postal ratemaking process is a form of cost-of-service regulation. Over the last 25 years, this regulatory framework has been criticized as stifling innovation, promoting inefficiency, and taking the focus of management away from the customer. An alternative regulatory model, called incentive regulation, has been applied successfully in railroad and telecommunications industries, both here and abroad. The experience with these industries strongly suggests that incentive regulation, if properly designed, can provide the framework for a more efficient and more innovative Postal Service. Under incentive regulation, the ratemaking process is streamlined by allowing reasonable pricing changes to occur without extensive regulatory hearings. Also, the Postal Service would be able to react more quickly to changing market conditions and focus more directly on the needs of its customers. Incentives for efficiency are enhanced because cost increases cannot be passed routinely to customers via rate increases.

Incentive regulation provides the prospect for meaningful planning and budgeting for both the Postal Service and its customers. As ratemaking uncertainty is reduced, financial planning can be improved; budgeting becomes a true management tool. Incentive regulation would give the Postal Service more control over its pricing and enhance its ability to execute strategic plans. It would also give our customers more control for budgeting their postal costs. Freeing the annual income statement from the existing boom and bust of the rate cycle will improve financial planning and make budgets more meaningful and useful as measures of management performance. These efficiencies and improvements are entirely consistent with the basic mission of the Postal Service: universal public service. In fact, the increases in efficiency and customer focus should make the Postal Service even better able to fulfill its mission.

Question. One of the integral parts of reform discussions, at least from the perspective of the Postal Service, is financial freedom. As you are aware, the Treasury Department is under the jurisdiction of this appropriations bill. What exactly does the Postal Service mean by financial freedom?

Answer. The Postal Service seeks access to the best financial services available in the marketplace, and to gain the efficiencies that would accompany the private sector's flexibility, competition, innovation and rapid response to customer business needs. The Postal Service believes Treasury understandably has much higher priorities than provision of the most competitive financial services to government business enterprises.

More specifically, the Postal Service seeks the authority to:

—(1) maintain the Postal Service Fund in a Federal Reserve bank or a commercial bank depository for public funds selected by the Postal Service;

—(2) invest funds in marketable obligations of, or obligations guaranteed by, the Government of the United States, or businesses closely related to the Postal business; and

—(3) issue debt in the marketplace without preemption by Treasury.

The reforms the Postal Service seeks are in contrast to current requirements, which are as follows: the Postal Service Fund must be maintained within the U.S. Treasury; investments must be in non-marketable, special issue Treasury securities; and the Postal Service must first offer all debt obligations to the Secretary of the Treasury before proceeding to sell the obligations to another party or parties.

Question. The President's Budget and the Bipartisan Budget Agreement both assume repeal of a provision which requires the Federal Government to pay for workers' compensation benefits to Post Office Department employees injured before the creation of the United States Postal Service in 1971. The savings to the Federal Government, and the resulting cost to the Postal Service, from repeal of this mandatory appropriation is estimated to be $261 million over ten years. What is the effect on the Postal Service of the elimination of this provision?

Answer. The Postal Service, like other business enterprises, follows Generally Accepted Accounting Principles (GAAP). In the event of elimination of the appropria-

tion for Post Office Department claims, and the assumption of these costs by the Postal Service, GAAP would require that the Postal Service recognize on its financial statements the amount of the present value of all estimated future cash outlays on behalf of these former employees of the Post Office Department. Currently we estimate that the total of such future cash outlays is about $330 million, and that the present value of these outlays is about $240 million. Thus, the primary effect of elimination would be an immediate negative impact on the Postal Service financial statements of $240 million. (The $90 million balance would be recognized in future fiscal years.) This proposal would also result in a loss of cash to the Postal Service. The first cash outlay, in fiscal year 1998, would equal $34.9 million; subsequent cash outlays would be for lesser amounts.

U.S. TAX COURT

PREPARED STATEMENT OF MARY ANN COHEN, CHIEF JUDGE

Mr. Chairman and members of the Committee, I present for your consideration the appropriation request of the United States Tax Court for fiscal year 1998.

FISCAL YEAR 1998 BUDGET REQUEST

The Tax Court's fiscal year 1998 budget request is for $34,293,000 and 350 permanent positions. This amount represents an increase of $512,000 from the fiscal year 1997 appropriation of $33,781,000 and no increase over the fiscal year 1997 request.

This increase results from the following items: $273,000 for annualization, promotions, within-grade increases, and personnel-related benefits; $372,000 for the pay raise effective January 1998; and a decrease in the amount of (−$133,000) due to lower telephone, mail, and equipment requirements.

The Court's request is simply to fund the normal day-to-day operations of processing cases from the time of filing through trial and final decision.

INVENTORY OF THE U.S. TAX COURT

Any discussion of the Court's workload must emphasize that, at the present time, the Tax Court handles approximately 95 percent of all substantive tax litigation, exclusive of collection actions, in the Federal courts. As the Committee knows, it is the only court where taxpayers can litigate their cases without prior payment of a tax deficiency determined by the Internal Revenue Service. Proceedings in the Tax Court are begun by the filing of a petition by a taxpayer who has been issued a notice from the Commissioner of Internal Revenue determining a deficiency in tax. The Tax Court has no control over issuance of the notices.

During fiscal year 1996, the number of cases filed with the Court increased 10 percent from the previous year, from 25,402 cases filed in fiscal year 1995 to 27,892 cases filed in fiscal year 1996. The Court closed fiscal year 1996 with 29,281 cases pending, a 1 percent reduction from September 30, 1995.

The Court cannot predict with certainty the number of new cases that will be filed. We have no reason to expect that the number of petitions in fiscal years 1997 and 1998 will differ significantly from the number filed in 1996. The number of closings will keep pace, and the inventory as a whole is and will remain current.

SUMMARY

While manageable, the Tax Court inventory is substantial and will continue to be so because of its unique jurisdiction. The Tax Court's goal is to resolve cases expeditiously while giving careful consideration to the merits of each matter. The Court is also committed to providing taxpayers with a convenient forum for trial and simplifying the presentation of disputes involving relatively small amounts of tax dollars. The goals, as always, will remain constant as the Court endeavors to function as a safety valve in the self-assessment system, to assure a uniform interpretation of the Internal Revenue Code, and to provide a national forum for the resolution of disputes between the taxpayers and the Internal Revenue Service.

NONDEPARTMENTAL WITNESSES

[CLERK'S NOTE.—The following testimonies were received by the Subcommittee on the Treasury and General Government for inclusion in the record.

The subcommittee requested that public witnesses provide written testimony because, given the Senate schedule and the number of subcommittee hearings with Department witnesses, there was not enough time to schedule separate hearings for nondepartmental witnesses.]

PREPARED STATEMENT OF BERNARD H. BERNE, M.D., PH.D.

SUMMARY OF TESTIMONY

I am a resident of Arlington, Virginia. I serve the Food and Drug Administration (FDA) as a Medical Officer and as a reviewer medical device approval applications. I am testifying as a private individual and not as a representative of FDA or of any other organization.

The General Services Administration (GSA) is evaluating the former Naval Surface Warfare Center in White Oak, Maryland, for the major FDA consolidation. However, this is a very poor site for this federal administrative and laboratory facility.

Metrorail is three miles away. Nearby highways and roads are highly congested during rush hours.

GSA and FDA are planning a country club in White Oak's affluent suburbs. FDA's 130-acre campus will have a visitor center and other amenities. Adjacent federal property will contain a golf course and a woodland.

Congress must stop this extravaganza. The Administration has not requested any funds to begin this project, which lacks an approved prospectus. Congress should not initiate any appropriation to support the project.

The Southeast Federal Center in Washington, D.C. is now available for a major federal headquarters. Adjacent to the Navy Yard Metro station and close to the Capitol, this site appears ideal for FDA's facility.

Two Executive Orders, GSA's own regulations, and the policies and of President Clinton's Administration and of the National Capital Planning Commission (NCPC) require that GSA and FDA give the Southeast Federal Center preference over the White Oak site. However, because of past actions and requests by Conference Committees on Appropriations, GSA is not evaluating it.

I therefore ask the Committee on Appropriations of the United States Senate to take the following four actions:

1. Please oppose any appropriation of funds to support an FDA consolidation at the former White Oak Naval Surface Warfare Center in Montgomery County, Maryland.

2. Please appropriate $5,000,000 to the study of a major FDA consolidation in the District of Columbia, with an initial focus on the Southeast Federal Center and its vicinity.

3. Please do not appropriate any funds for the General Services Administration (GSA) to decontaminate,prepare, or acquire any site for any part of the FDA consolidation until a prospectus for the entire consolidation is approved in accordance with the provisions of the Public Buildings Act of 1959.

4. Please ask GSA or the General Accounting Office to appraise the value of the White Oak site.

EXPLANATION OF REQUESTS

1. Please oppose any appropriation of funds to support an FDA consolidation at the former White Oak Naval Surface Warfare Center in Montgomery County, Maryland

The present need for this project is questionable. New FDA buildings in Prince George's County will house those FDA Centers that now contain most or all of the FDA offices and laboratories that are reported to be in poor facilities.

Many FDA offices, including my own, are in excellent buildings. None of my coworkers complain about their present offices. Nevertheless, we would all relocate to the Montgomery County consolidated facility.

My coworkers and I rarely need to visit other FDA centers while reviewing medical device applications. The need to consolidate seems small.

White Oak is three miles from the closest Metrorail station. In contrast, FDA's largest office building is presently only half a mile from a Metro station. FDA will likely lose many experienced employees if it moves to White Oak.

The Naval Surface Warfare Center is in an affluent suburban residential neighborhood. The White Oak area does not require federal aid to support its development.

Roads and highways near White Oak are highly congested during rush hours. These include such major arterials as Capital Beltway, New Hampshire Avenue, and Colesville Road. These do not need the additional traffic that this project would bring to the area.

The Congressional Concurrent Resolution on the Budget for fiscal year 1996–2002 assumes a 30 percent reduction in funds for Federal Buildings construction in its seven year plan to balance the federal budget (Conference Report for H. Con. Res. 67: H. Rept. 104–59, June 26, 1995, p. 84). House and Senate Committees on Appropriations need to address this programmed reduction in discretionary spending.

President William J. Clinton urged Congress to further reduce spending on federal building projects when he vetoed the first 1995 rescission bill (H.R. 1158). The President does not appear to support costly federal construction projects, especially since the Administration did not propose any 1998 funding to initiate or support this project.

There is no urgent need for a major FDA consolidation. Congress needs to implement its Budget Resolution and the President's policies by appropriating no new 1997 funds for FDA's Montgomery County consolidation.

FDA and GSA are developing plans for an extravagant 130-acre campus at White Oak. According to GSA's March, 1996, Draft Environmental Impact Statement (DEIS) for the Montgomery County consolidation, the White Oak campus will contain a visitor center and will feature both a woodland and a six hole golf course on adjacent federal property.

FDA can accomplish its mission without a sprawling campus, a golf course, a woodland, or a visitor center. FDA does not need a country club.

Congress has not reviewed or approved any prospectus for any part of the FDA consolidation. Congress does not know the specifications or the costs of this project.

GSA presently has an opportunity to acquire property near the downtown Silver Spring Metrorail station by donation from the Montgomery County government. GSA also can locate the project on federally-owned property in downtown Washington, D.C. With such opportunities, Congress should not support a White Oak consolidation.

2. Please appropriate $5,000,000 for the study of a major FDA consolidation in the District of Columbia, with an initial focus on the Southeast Federal Center and its vicinity

Rescissions in 1996 removed all of the funding for federal construction at the Southeast Federal Center. The 1997 Omnibus Appropriations Act provided funds for environmental clean-up activities at this site. This federal property is therefore available for the FDA consolidation.

The Southeast Federal Center is adjacent to the Washington, D.C., Navy Yard. It is next to the Navy Yard Metro Station and is only a mile from the Capitol building.

Previous actions and statements by Congressional conference committees on appropriations and rescissions have directed FDA's major consolidation to White Oak. Citing these actions and statements, GSA officials have refused my repeated requests to evaluate the Southeast Federal Center site as an alternative site for the consolidation.

The March 1996 DEIS does not evaluate any sites other than the White Oak Naval Surface Warfare Center. Only Congress or a Federal court can change GSA's direction.

A 1996 National Capital Planning Commission (NCPC) plan has recently designated the Southeast-Federal Center as an important site for new offices. NCPC expects this new economic development to "assist the transformation of the Southeast Federal Center and adjacent Navy Yard into a lively urban waterfront of offices, restaurants, shops and marinas" ("Extending the Legacy", Plan for Washington's Monumental Core, NCPC, March 1996).

The goal of NCPC's plan is to preserve and enhance Washington's Monumental Core, which is centered at the U.S. Capitol building. An FDA consolidation at the Southeast Federal Center can revitalize a decaying D.C. neighborhood and help achieve NCPC's goal.

The Southeast Federal Center and its nearby depressed commercial area can hold buildings up to 14 stories high. If necessary for the consolidation, GSA can purchase adjacent commercial property at a low cost. The Southeast Federal Center is an ideal site for a large new federal headquarters facility.

The legislation that initiated the FDA consolidation (Public Law 101–635) authorizes only a single consolidated FDA administrative and laboratory facility. Indeed, Senate Report No. 101–242 (Feb. 1, 1990), which accompanied the authorizing legislation, states, "the FDA needs to be consolidated in a buildings." Public Law 101–635 did not anticipate or authorize a 130-acre FDA campus and two satellite facilities.

FDA does not require a 130-acre campus for its consolidation. Large high-rise buildings can readily house most or all of FDA's offices, laboratories, and ancillary facilities.

Cities throughout the Nation contain many such research and office centers. Over 2000 National Institutes of Health (NIH) research laboratories are located in a single 14-story building that the government constructed in 1981 in Bethesda, Maryland. A single 18-story building in Rockville, Maryland, now houses many of FDA's offices, including the Office of the Commissioner.

Congress and the Secretary of Health and Human Services (HHS) can readily oversee FDA's activities if FDA consolidates at the Southeast Federal Center. Additionally, FDA's visitors and regulated industries would find this site to be far more convenient than suburban White Oak.

The Southeast Federal Center is close to both Maryland and Virginia. An FDA consolidation there will enhance the economies of three jurisdictions (D.C., Maryland, and Virginia). In contrast, a consolidation at White Oak would benefit Maryland at the expense of the District and Virginia.

The median annual household income in the White Oak residential neighborhood exceeds affluent Montgomery County's median at $65,000. Southeast Washington's median household income is much lower. Federally supported economic development is far more critical to Southeast D.C. than to White Oak.

Please recommend a survey of other sites in the District if GSA finds that FDA cannot feasibly consolidate at and near the Southeast Federal Center.

A direction of planning funds to study sites in the District would place the project in compliance with Executive Order No. 12072 (August 16, 1978), and with its implementing regulations in 41 CFR §101–17.000 et seq., as reaffirmed by the present Administration in 41 CFR §17.205 (Location of space) (Federal Register, Vol. 61, No. 46, pp. 9110–9112, March 7, 1996). It would also be consistent with the purposes of the National Capital Planning Act of 1952 and the policies and recommendations that NCPC has developed to implement it.

Executive Order 12072 and its implementing regulations direct the locations of federal facilities in urban areas, including the National Capital Region. They require federal agencies to locate and use their space and facilities so that the facilities "shall serve to strengthen the Nation's cities" and "shall conserve existing urban resources, and encourage the development and redevelopment of cities."

Executive Order 12072 and its implementing regulations require GSA and FDA officials to "economize in their requirements for space". The Order states: "Except where such selection is otherwise prohibited the process for meeting Federal space needs in urban areas shall give first consideration to a centralized community business area and adjacent areas of similar character * * *."

President William J. Clinton reaffirmed Executive Order 12072 in his Executive Order 13006, May 21, 1996, (Federal Register, Vol. 61, No. 102, May 24, 1996, pp. 26071–26072). Section 1 of President Clinton's Order states:

"(Statement of Policy). Through the Administration's community empowerment initiatives, the Federal Government has undertaken various efforts to revitalize our central cities, which have historically served as the centers for growth and com-

merce in our metropolitan areas. Accordingly, the Administration hereby reaffirms the commitment set forth in Executive Order No. 12072 to strengthen our nation's cities by encouraging the location of Federal facilities in our central cities."

On March 11, 1997, President Clinton stated that, as part of his economic stimulus package to revitalize D.C., he had "directed his Cabinet secretaries to find other ways to help the District, beginning with keeping federal agencies in the city" (Washington Post, March 12, 1997, page 1). This is consistent with his Executive Order 13006 and with established federal policies concerning the location of federal facilities in the Washington Metropolitan Area.

GSA's 1996 interim rule, 41 CFR 101–17.205 (Location of space), requires GSA and other federal agencies to comply with Executive Order 12072. It also states in paragraph (n), "* * * These policies shall be applied in the GSA National Capital Region, in conjunction with regional policies established by the National Capital Planning Commission and consistent with the general purposes of the National Capital Planning Act of 1959 (66 Stat. 781), as amended. These policies shall guide the strategic plans for housing of Federal agencies within the National Capital Region."

GSA and FDA have long disregarded the Executive Order and NCPC's regional policies and recommendations when planning, leasing and constructing federal buildings in the National Capital Region. To help President Clinton resolve D.C.'s financial crisis, Congress needs to correct this.

A long-standing NCPC policy presently encourages government agencies to redistribute federal jobs in the National Capital Region. This redistribution is long overdue. Congress needs to address this in the federal buildings appropriations process.

The redistribution would implement NCPC policies and recommendations that NCPC has developed in compliance with National Capital Planning Act. It would reverse recent trends and correct a growing imbalance of federal employment in the National Capital Region.

In a recent Proposed Federal Capital Improvements Program (PFCIP), National Capital Region, fiscal years 1997–2001 (April, 1996) (p. 9), NCPC reported that the District of Columbia will lose 889 federal employees as a result of the FDA consolidation project. This would accelerate a continuing transfer of federal employment from the District to the Maryland and Virginia suburbs.

According to NCPC's PFCIP (p. 10), the District's percentage of the total Federal employment in the National Capital Region has declined from 58.0 percent in 1969 to 52.4 percent in 1994.

Because of this trend, NCPC's PFCIP (p. 12) has a final recommendation that states, "The Commission encourages each agency to adhere to the policy in the Federal Employment element of the Comprehensive Plan adopted in 1983 which specifies that the historic relative distribution of Federal employment of approximately 60 percent in the District of Columbia, and 40 percent elsewhere in the Region should continue during the next two decades. This policy is used by the Commission to ensure the retention of the historic concentration of Federal employment in the District of Columbia, the seat of the national government."

A major FDA facility at the Southeast Federal Center is consistent with President Clinton's expressed policies and orders to his Cabinet secretaries, Executive Orders 12072 and 13006, GSA's implementing regulations, and NCPC policies and recommendations. A facility at White Oak would be inconsistent with all of these.

FDA now plans to move about 700 federal employees in its Center for Food and Applied Nutrition (CFSAN) from the District of Columbia to a new facility in Prince George's County, Maryland. To reverse the accelerating decline of the nation's capital city, Congress must mitigate such relocations by directing the major FDA consolidation to the District of Columbia.

4. Please do not appropriate any funds for GSA to decontaminate, prepare, or acquire any site for any part of the FDA consolidation until a prospectus for the entire consolidation is approved in accordance with the provisions of the Public Buildings Act of 1959

The Public Buildings Act of 1959 requires the approval of a prospectus for all GSA building projects before funds can be appropriated for construction and site acquisition. However, no prospectus for any phase of the FDA consolidation has ever been approved.

Provisions in the 1992, 1993, and 1995 Treasury, Postal Service, and General Government Appropriations Acts (Public Law 102–141, Public Law 102–393, and Public Law 103–329) permitted GSA to use the funds made available in those Acts for the FDA consolidation and for certain other projects, even though no prospectuses for these projects had been approved. These provisions released GSA from its obligation to comply with the Public Buildings Act of 1959 when planning the early phases of the FDA consolidation.

The 1996 and 1997 Appropriations Acts (Public Law 104–52 and 104–208) and contained no such exemptions. Provisions in these laws state that appropriated funds shall not be available for construction, repair, alteration, and acquisition project for any project if a prospectus for project has not been approved. The 1998 Appropriations Act should contain such a provision.

In 1995, the House of Representatives debated the need for a prospectus for the FDA consolidation (Congressional Record, July 19, 1995, p. H7200–H7206). Some members of Congress appear to believe that the consolidation's authorizing legislation (Public Law 101–635) exempts the consolidation from the prospectus requirement.

Congress must eliminate this ambiguity and ensure proper congressional oversight. Congress should appropriate no new funds for any phase of any FDA consolidation until a prospectus describing the entire project is approved.

Because of a 1996 rescission (Public Law 101–19), GSA and FDA have no funds available to construct its major consolidated facility at White Oak or at any other location. Congress needs to review a prospectus for the project before any funds are appropriated any funds to construct it.

5. Please ask GSA or the General Accounting Office to appraise the value of the White Oak site

This would prepare the government for a sale of part or all of the Naval Surface Warfare Center. It would also help Congress evaluate the real cost of an FDA consolidation at White Oak. A sale would support the original purpose of the base closure, which is to help balance the federal budget.

ADDITIONAL INFORMATION

The following observations further support my requests:

1. The government long ago designated its Southeast Federal Center as a site for a new federal facility. However, nothing has been built there yet. An FDA facility would stimulate the revitalization of this D.C. area.

2. As noted above, the National Capital Planning Commissions 1996 plan for Washington's Monumental Core states in the category of Economic Development, "Assist the transformation of the Southeast Federal Center and adjacent Navy Yard into a lively urban waterfront of offices, restaurants, shops and marinas".

An FDA consolidation at the Center would help implement this Plan. The government could rent space in the ground floors of FDA's office buildings to operators of shops and restaurants.

3. Unlike White Oak, the Southeast Federal Center is near a Metro station. Development at this site would encourage the use of Metrorail. This would increase the use of the area's financially troubled public transit system and reduce air pollution and traffic congestion.

If the consolidation occurs at the Southeast Federal Center, many more FDA workers will likely choose to use Metrorail than presently do. This would benefit the Washington Metropolitan Transit Authority (WMATA) and local, state, and federal governments.

In contrast, an FDA facility at White Oak would encourage the use of private automobiles. The roads near White Oak are already highly congested.

The sections of I–95 and the Capital Beltway that serve White Oak rank among the most congested highways in the National Capital Region. They are the sites of frequent accidents and traffic jams.

The White Oak area is principally residential. For this reason, few buses run from Metro stations to the White Oak Naval Surface Warfare Center in the morning and from it in the afternoon. Thus, most FDA employees would find it difficult to use public transportation to commute to and from work at White Oak.

New public transportation routes are costly. There can be no assurance that bus service will improve if FDA moves to White Oak.

If FDA consolidates at White Oak, WMATA will lose revenues from FDA employees who now use Metrorail and Metrobuses on a daily basis. Local, state and federal governments will have to pay for this, since WMATA is heavily subsidized.

4. White Oak's distance from Metrorail and from the core of the National Capital Region will induce many employees to work at home under FLEXIPLACE. This will defeat the purpose of the consolidation.

5. The Southeast Federal Center is in a decaying urban commercial area that is in great need of the economic development that the FDA consolidation would bring.

Southeast Washington is one of the most economically distressed areas of the nation's capital city. As is well known, the District of Columbia is itself in great need of economic development.

According to a table in the March 1996 DEIS (p. 3–55), the District of Columbia had in 1994 the lowest average household income ($30,727) of nine jurisdictions in the Washington, D.C., Metropolitan Area.

In contrast, the White Oak site is in an affluent residential neighborhood that is not in great need of economic development. According to a March 29, 1996, Maryland National Capital Park and Planning Commission staff report on the White Oak DEIS, the neighborhood's median household income exceeds the median income for Montgomery County at $65,000 per year.

According to the Washington Post (April 3, 1996), the White Oak neighborhood already boasts a community swimming pool, tennis courts, and four tot lots. A map in the March 1996 DEIS shows that a neighborhood community center abuts the Naval Surface Warfare Center near the FDA site. The FDA consolidation would add a federally-owned golf course to these amenities.

The DEIS (p. 3–55) states that Montgomery County, Maryland, had in 1994 the second highest average household income ($64,596) of nine listed Washington, D.C. Metropolitan Area jurisdictions. Montgomery County therefore does not appear to be in great need of large federal employment centers that might otherwise be located in the District of Columbia.

There is a great economic contrast between Southeast Washington and White Oak. Federal development would serve a far better purpose at the Southeast Federal Center than it would at White Oak.

6. FDA can place its laboratories and offices in compact and efficient 14-story buildings at the Southeast Federal Center. In contrast, its buildings at White Oak would be only five to six stories high.

FDA's present headquarters are in a 18-story office building (the Parklawn Building in Rockville, MD). The Office of the Commissioner of Food and Drugs is in this building, which is half a mile from the Twinbrook Metro station.

The National Institutes of Health has a 14-story research laboratory building that was built in 1981 at its Warren Magnuson Clinical Center in Bethesda, Maryland. The National Cancer Institute has some of its nationally-renowned laboratories in the 13th floor of this building, which, according to an NIH brochure, holds 2000 separate laboratories.

It is therefore likely that FDA can consolidate its laboratories and offices in buildings up to 14 stories high in the Southeast Federal Center. If needed, GSA can purchase additional property nearby at low cost. Neighboring properties do not appear to be in good condition.

7. The Navy Yard Metrorail Station is on Metro's Green Line. The station is only three stops from Maryland's Southern Avenue Metrorail station and only two stops from Virginia's Pentagon Station. An FDA facility at the Southeast Federal Center will therefore benefit the economies of both Maryland and Virginia, as well as the District.

In contrast, an FDA facility at White Oak would benefit only Maryland. It is too far from D.C. and Virginia to provide any economic benefits to either of these jurisdictions. Instead, it would draw federal employees and associated businesses away from Virginia and D.C.

8. An FDA consolidation at suburban White Oak would violate former President Jimmy Carters Executive Order 12072, which President William J. Clinton's Executive Order 13006 reaffirmed. It would also violate a federal regulation in 41 CFR 101–17.205 that GSA issued in 1996 to help implement the Order.

When issuing this new regulation, GSA stated, "On August 16, 1978, President Carter issued Executive Order 12072, which directs Federal agencies to give first consideration to centralized community business areas while filling federal space needs in urban areas. The objective of the Executive Order is that Federal facilities and Federal use of space in urban areas serve to strengthen the Nation's cities and make them attractive places to live and to work. This regulation serves to reaffirm the Administration's commitment to Executive Order 12072 and its goals." (Federal Register, Vol. 61, No. 46, March 7, 1996, p. 9110.)

The Southeast Federal Center is in an economically depressed centralized community business area in the city of Washington, D.C. This area's neighborhood urgently needs revitalization. In contrast, the Naval Surface Warfare Center at White Oak is not in any city, is far from any centralized community business area, and is in an affluent Montgomery County residential neighborhood.

The Executive Order and the CFR have provisions that make them especially applicable when the neighborhood of the urban site (Southeast Washington) is economically depressed while the suburban site is affluent, and when the urban site is adequately served by public transportation, while the suburban site is not. Because of its residential suburban location, the White Oak site is served only infre-

quently by buses that run from Metrorail stations in the morning and to the stations in the afternoon.

Appropriations legislation makes funds available for federal construction in specified locations. The language of such legislation and its supporting committee reports should not conflict with an existing Executive Order and a recently revised Federal regulation that both require federal agencies to give preference to a different location.

FDA must economize on its space requirements to a great enough extent to allow it to consolidate at the Southeast Federal Center, rather than at suburban White Oak. Congress should not support the appropriation of funds if such an appropriation would encourage GSA to violate the Executive Order and its implementing regulations.

9. The March 1995 DEIS discusses a federal report to the Secretary of HHS (Final Report of the Advisory Committee on the Food and Drug Administration, May 15, 1991) that assessed the need for new FDA facilities. According to the DEIS (p. 1–8), the Committee summarized its chapter on resources by recommending, ''The FDA must now begin to correct the most urgent of its facility needs, particularly for food and veterinary medicine laboratories and field operations.''

It is noteworthy that FDA is now planning to relocate its food and veterinary medicine laboratories to new facilities in Prince George's County, Maryland. Facilities for field operations would not be improved by an FDA headquarters consolidation. According to documentation cited in the DEIS, the FDA offices and centers that FDA plans to move to White Oak do not appear to be in great need of new facilities at this time.

While some FDA facilities may need renovation or replacement, many do not. Senate Report 101–242; which supports the consolidation, cites only one example of a facility that is antiquated. This is a laboratory in CFSAN, which FDA plans to relocate to Prince Georges County and not to Montgomery County.

FDA and GSA officials may describe to you certain existing buildings that are inadequate. These descriptions may be correct; however, my personal observations indicate that the conditions of such buildings are not representative of most buildings that FDA now occupies.

One FDA laboratory building that may need repair is on the NIH campus in Bethesda, Maryland. This is a laboratory of the Center for Biologics Evaluation and Research (CBER), which would be relocated to White Oak. However, this building is owned by the Federal government.

The government will have to fund the CBER lab's renovation even if FDA leaves it. Further, if FDA leaves this facility, its personnel will lose valuable personal interactions with world-renowned personnel who work for NIH. They will also lose the ability to use valuable and unique NIH equipment. The government will gain nothing from this move.

Some of the CBER laboratories have recently moved into a new building on the NIH campus. Thus, even within CBER, not all laboratories are in poor condition.

In contrast to some FDA laboratories, many of the office buildings used by FDA are in good or excellent condition. Some are in leased buildings that are quite new. Some even contain amenities such as large atriums with palm trees.

Such superb facilities can be observed at the Center for Devices and Radiological Health (CDRH) offices at 9200 Corporate Blvd. in Rockville. Other excellent CDRH office facilities are located at 1350 Piccard Drive and 2094 and 2098 Gaither Road in Rockville. Still others can be seen at the offices of other Centers in the Metropark North buildings on Crabbs Branch Road in Rockville.

The adequacy of the CDRH office facilities is documented in an Interoffice Memorandum sent by Electronic Mail dated 01–Feb–1995, from Connie J. Wilhelm-Miller, of' the CDRH Office of Management Services, Division of Resource Management. This memo, whose primary subject is Smoking Policy (smokers were putting burns in the floors and walls of new buildings), states that ''most of CDRH's office space is fairly new''. My personal observations confirm the accuracy of this statement.

A Conference Committee Report (House Report 102–234) that supported the 1992 Appropriations legislation (Public Law 102–141) stated that there is no disagreement that FDA facilities are antiquated, inefficient and overcrowded. This is simply incorrect. It overstates a problem that is being experienced by only a small portion of FDA.

House and Senate Reports supporting the consolidation state that FDA's antiquated facilities are causing recruitment and retention problems. However, this is only true at very few places, and perhaps only in the CFSAN laboratory that is relocating to Prince George's County.

I know of no FDA building housing an office or laboratory that will move to the White Oak campus that is in such disrepair that people will not work in it. Some buildings may need improvement, but none are that bad.

Most FDA workers work only in offices. Many of these are in fairly new buildings that are in good condition, such as the one in which I work. There is little reason to expect that many of these employees will be happier in a new facility at White Oak.

Limited replacement of facilities with local consolidations where needed may well be desirable. However, a massive consolidation of Montgomery County facilities is not.

10. FDA facilities are presently dispersed. However, this does not create great inefficiencies. Many FDA offices with related functions, such as those in CDRH in Rockville, are consolidated in buildings within one or two miles of each other. A large number are in and near a single building (the Parklawn Building) near the Twinbrook Metro Station in Rockville, MD.

Although there are a number of functions that involve different offices in different centers, most functions are carried out within one Center. More importantly, few interoffice functions require more than occasional face-to-face interactions which necessitate travel.

In addition, travel times between existing Centers that will consolidate in the Montgomery County campus are not great. All are connected by Rockville Pike and I–270. The average trip between offices is probably less than ½ hour.

It is important not to overrate the need for consolidated facilities.

The U.S. Armed Forces won the Second World War operating from bases and headquarters throughout the U.S. and in much of the rest of the world. Only a tiny percentage of defense workers and military personnel were located in any single facility. Decentralized agencies can and do often work at least as efficiently as those that are consolidated.

Further, the great majority of product approvals require decisionmaking within only a single building. It is only unusual decisions that require conferences in separate buildings. Only a tiny minority require conferences among offices in widely scattered facilities.

Most FDA personnel therefore have no need to travel between different centers or offices on a regular basis. The need for consolidation is not great, despite the statements made in Congressional Committee Reports.

A number of present FDA centers are located near Metro stations, such as Medical Center, Shady Grove, and Twinbrook. The large Parklawn Building is an example of this. Many employees can therefore now travel quickly and easily from one Center to another, as well as to meetings at NIH and in downtown D.C.

In contrast, White Oak is 3 miles from Metrorail. Few, if any, people will take Metro to commute or to go to meetings at NIH or in D.C.

Most communications occur today by phone and by electronic mail. Electronic networks allow documents to be transmitted to anyone with a receiver. Indeed, many FDA personnel now regularly work at home using FLEXIPLACE. Using home computer modems, they can connect with FDA computer networks to perform most necessary functions.

The need for a costly consolidation is not great. It cannot be expected to greatly increase FDA's efficiency. By causing experienced workers to leave the agency, it may actually decrease FDA's effectiveness.

11. Congress should only appropriate funds for a consolidated FDA facility if the consolidation would help increase the use of mass transportation or would aid in the redevelopment of a depressed urban center such as Southeast Washington, D.C. It is environmentally and economically unsound for Congress to fund the construction of a new facility at White Oak that is far from an urban center.

12. Most FDA employees need to work only at a single location. The approval of new drugs and medical devices usually takes place within a single FDA Center. A major FDA consolidation, if it occurs, will primarily benefit a small cadre of FDA managers who often travel between centers and who are promoting the consolidation.

In actuality, a major consolidation is not likely to benefit many FDA employees. It is even less likely that a consolidation will significantly speed the approval of new drugs and medical devices.

13. During President George Bush's term in office, the Office of Management and Budget (OMB) opposed funding of the FDA consolidation because it was not worth the cost. The Administration considered it more cost/effective to renovate facilities as needed.

It was a Congressional Appropriations conference committee that first proposed the appropriation of funds for the FDA consolidation (Conference Report for Public

Law 102–141: House Report 102–234, Oct. 3, 1991). The Conferees directed FDA, GSA, HHS, and OMB to work together to submit a funding plan for the project and urged OMB and the President to support the Conferees' concept of the "consolidation".

The Conferees introduced the concept of building separate FDA facilities in Prince George's and Montgomery County. They recommended the appropriation of $200,000,000 in the Federal Buildings Fund to begin the process of dismantling the single-site consolidation that the FDA Revitalization Act (Public Law 101–635) had previously authorized.

Public Law 101–635 had amended the Federal Food, Drugs and Cosmetics Act. It had authorized the Secretary of HHS (not the Administrator of GSA) to construct a single consolidated FDA facility.

Despite this authorization, the Conferees recommended the appropriations of funds from the Federal Buildings Fund for the GSA Administrator to use to construct two FDA facilities in separate counties located in the State of Maryland. The Conferees also recommended that the appropriation for the FDA facilities be exempt from prospectus requirements of the Public Buildings Act of 1959.

Appropriations Conference Committees have therefore undermined the FDA Revitalization Act, the Public Buildings Act of 1959, Executive Order No. 12072, 41 CFR 101–17.000 et seq., and the National Capital Planning Act of 1952. They have made it difficult for government officials to follow procedures that assure compliance with Congressional oversight legislation and site selection requirements in the National Capital Region and elsewhere.

These Conference Committees have endorsed the appropriations of funds for more than one FDA "consolidated" facility, have designated the GSA Administrator (rather than the Secretary of HHS) as the planner and builder of the facilities. They have also allowed GSA to construct buildings without a prospectus.

Appropriations conferees have recommended that FDA build a campus rather than consolidate in a single building. Additionally, they have caused FDA to transfer federal jobs out of the financially distressed District of Columbia and into more prosperous Maryland counties and neighborhoods.

This is not good planning. It is pork barrel politics at its worst. Congress must correct itself.

14. Senate Report No. 101–242, Feb. 1, 1990, which supported the FDA Revitalization Act (Public Law 101–635) estimated that the cost of the consolidation would approximate $500,000,000.

FDA and GSA now estimate the total cost of the consolidation to be at least $600,000,000. This would create a cost overrun exceeding the original $500,000,000 estimate by $100,000,000.

15. Despite the 1995 rescission of funds for a sprawling FDA facility in Clarksburg, Maryland, FDA's and GSA's facility engineers continue to plan for a large FDA campus. They do not wish to seriously economize in the agency's use of space.

By creating unnecessarily large requirements for space, they are evading their responsibilities to consider locating the consolidated facility in a compact site in a central city. One such site is now available at the Southeast Federal Center.

Unless Congress intervenes as it did in 1995, GSA and FDA will likely violate major provisions of Executive Order No. 12072 and the National Capital Planning Act of 1952. As noted above, these now dictate a preference for the Southeast Federal Center.

16. Some reports on FDA have suggested that certain FDA facilities are overcrowded. This may no longer be true.

GSA has recently leased a number of new buildings for FDA. Overcrowding is therefore not as acute as it was several years ago.

17. The DEIS contains no information on the number of buildings that FDA will reuse at White Oak. FDA will not be able to use many of the existing buildings because they are contaminated, deteriorated, of unsatisfactory conformation, and poorly located. FDA will clearly need to build a number of costly structures at White Oak.

18. Some of the planned excess capacity at the 130 acre White Oak facility is desired for future expansion. However, this amounts to nothing more than speculation.

Expectations of FDA expansions may well be unrealistic. FDA has not grown significantly in recent years, except in a few specific areas. Further, regulatory agencies often do not grow over long periods of time when there is an antiregulatory climate, when there are budgetary problems, or when there are pressures to privatize Federal functions.

FDA's major growth occurred years ago in response to obvious and important needs. FDA can now meet most of these needs without any further growth. Al-

though many agencies try to justify their own expansion, FDA may never be able to significantly increase its size or number of employees.

A compact site such as the Southeast Federal Center is more consistent with proposed FDA reform legislation than is a 130 acre site at White Oak. This reinforces the need for Congress to direct a study of the Southeast Federal Center.

19. Because FDA would acquire more land at White Oak than it presently needs, it will surely press for additional funding to construct more buildings in the future. This will increase future government expenditures.

As the FDA campus adds buildings at White Oak in the future, it will increase the urbanization of its surrounding residential neighborhood. This will eventually exceed the limits imposed by current zoning and land use plans and will create local controversies.

PREPARED STATEMENT OF LANSING E. CRANE, CHAIRMAN AND CHIEF EXECUTIVE OFFICER, CRANE & CO.

Mr. Chairman and members of the Subcommittee, I appreciate the opportunity to present a statement for the record on behalf of Crane & Co. In the past few months, much has been said about Crane & Co. in connection with the production of U.S. currency paper which is factually incorrect. This statement is intended to set forth Crane's position on the issues relating to currency paper production and to clarify some of the confusion and misinformation surrounding these issues.

Crane & Co. has been the nation's currency paper supplier for 118 years, as has been noted frequently. Nevertheless, Crane & Co. does not have a monopoly on the currency paper bidding process; that process is open as stipulated by Federal law, with bids solicited at least every four years by the Bureau of Engraving and Printing (BEP). Additionally, the Secretary of the Treasury has the authority to divide the contract for currency paper even if a second company has bid a higher price. While Crane has been a de facto sole-source supplier during most of this period, other companies have, on occasion, bid on and won part of the government's currency paper business. With only a few exceptions, the opportunity to bid has always existed for any domestic paper company.

COMPETITION

Crane & Co. strongly supports the concept of competition and the efforts of the Bureau of Engraving and Printing to ensure that U.S. currency paper contracts be open to bid. In point of fact, Crane & Co. has always operated as if it were competing, even when other companies have chosen not to bid on the currency paper contracts.

The claim has been made that other companies do not have an opportunity to bid for currency paper contracts. This is not accurate. What is accurate is that other paper companies, many of which are perfectly qualified and able to bid, have simply chosen not to do so.

The primary reason for companies choosing not to enter the currency paper business is that these companies can make more money producing other paper products, particularly commodity paper products. Further, many companies are not willing to make the necessary capital investments in the equipment and facilities required to produce currency paper because the size of the U.S. currency paper contracts has not been large enough to justify the investment, and the future of the industry is increasingly uncertain.

Crane & Co. is and always has been willing to compete for currency paper contracts and does not argue for any barriers to access to competitive bidding by any interested companies, domestic or foreign. In fact, Crane competes successfully in those countries which do not have their own currency paper production capacity. On the other hand, Crane is precluded from competing in countries where there is a resident paper producer. The process in those countries does not allow for competitive bidding, particularly from outside sources. For example, the Bank of England purchases its currency paper from Portals without competitive bidding. The same is true for the Bundesbank in Germany which purchases from Louisenthal. When the "Euro" is introduced in 1999, the paper will be procured by allocation, not bid, from existing European suppliers and will not be open to manufacturers outside Europe.

In short, the same companies pushing for international access to U.S. currency paper bidding are based in countries where the markets are not open to competition from any U.S. company.

There is currently a worldwide excess of currency paper production capacity and this will only increase in the near future. Various factors, such as the move to plas-

tic currency in some countries and the building of state-owned currency paper mills in others, are constantly reducing the worldwide demand for paper.

The state-owned mills, after fulfilling their own comparatively small requirements, tend to devote their excess capacity to compete with established commercial suppliers such as Portals and Crane. Thus, the international market is shrinking for commercial companies. In this situation, the Bureau's consideration of capital assistance to artificially create new, additional currency paper capacity in the U.S. inevitably would be destabilizing for this industry.

THE CONTE AMENDMENT

The Conte Amendment is a provision in law which requires that the Treasury Department obtain currency paper from manufacturers within the United States as long as a domestic source exists—and multiple domestic sources currently exist. The purpose of this requirement is to simplify the job of the Secret Service in maintaining the security and integrity of U.S. currency. This requirement is also typical of other nations which have domestic currency paper production capacity. There are no nations in the world which import currency paper where an adequate domestic supply exists.

The assertion has been made that the Conte Amendment ensures that "only Crane & Co. can bid on U.S. currency paper contracts." In fact, this provision does not prevent any U.S. paper manufacturer from bidding for U.S. currency paper contracts. Two U.S. paper companies, in addition to Crane, have already expressed to the Bureau an intent to bid on the next round of contracts.

The position of Crane & Co. on the Conte Amendment was and is that the company does not oppose any change in the Conte ownership percentage which Congress might wish to make, nor does it seek protection from foreign competition. Crane does believe, however, that the home base markets of international companies that want open access to U.S. currency paper bidding should also be open to the same type of bidding which exists in the United States. Crane believes that the U.S. Trade Representative is capable of certifying when and where such access for U.S. companies exists.

CAPACITY CONSIDERATIONS

In the case of Crane & Co., the company's manufacturing capacity has been developed to match the needs of the U.S. Treasury. This is done because the highly specialized, expensive equipment designed for high denomination, multiple security-feature paper production cannot be economically utilized to make other paper. Further, standard papermaking equipment is less and less suitable for making currency paper, other than the lowest denominations. In short, manufacturing capacity must be dedicated to one product alone, with that capacity typically matching the domestic demand.

Crane believes that as long as Congress requires that all U.S. currency paper manufacturing facilities be located within the U.S. any significant increase in domestic capacity will result in significant domestic over-capacity which, in turn, will be difficult to place on the international markets given the shrinking opportunities there and many closed markets.

It may be that the answer to some of the problems brought on by security-related limitations is to work toward eliminating all tariff and non-tariff barriers worldwide so that capacity can flow freely to meet demand. However, the reality of the currency paper industry worldwide—that countries purchase from domestic suppliers—and the increasing number of state-owned facilities make such open access to markets unlikely, if not impossible.

Crane does not argue for artificial barriers to competition for U.S. currency paper contracts. However, Crane believes that it is important that Congress understand the context of the U.S. market and how the market interacts with the rest of the world.

Crane believes that in adopting laws to limit or expand opportunities for companies to "compete" for U.S. currency paper contracts, Congress should do so based on informed. expert data and analysis of the long-term impact of such laws given the state of the industry worldwide. Such changes should not be made based on either marketing efforts by individual companies or philosophical beliefs in "competition" without careful consideration of the realities of this specific industry. In the absence of such consideration, there is great potential to destabilize a strategically important, dedicated domestic industry.

CAPITALIZATION

When the competitive REP was published in draft form for comment from the industry, Crane communicated to the Bureau Crane's concerns about the proposal to furnish "Contractor Acquired Property" to Crane's competitors. Crane's concerns, as articulated to the Bureau were, and are, that such assistance appears to be calculated to provide a competitive advantage to companies interested in tooling up to compete with Crane.

This proposal was clearly not intended to be a loan, which if furnished on ordinary commercial terms would not have a competitive impact or advantage. The Draft RFP was vague on the basis for repayment by the contractor, and there clearly was the potential for the contractor to enjoy a competitive advantage in the negotiation of repayment terms, if any amounts were to be repaid at all. Federal acquisition regulations are ambiguous on the need and method for neutralizing any competitive advantage.

Furnishing Contractor Acquired Property also would establish a partnership between the Bureau and the new contractor similar to that between a lending bank and a borrower of a very large loan. The Bureau would have a real and substantial stake in justifying the capitalization.

Anything other than a true loan would inevitably be a subsidy—something that would be unfair to Crane which has invested its own capital to support the Bureau. Further, as an artificial factor in the market, such subsidies would disrupt and destabilize a dedicated industry. It is this concept of Contractor Acquired Property that Crane objected to in the REP and in the proposed language in the Supplemental Appropriations Bill.

CRANE, THE SOLE SOURCE SUPPLIER

Sole source suppliers have been in disfavor in federal contracting for a number of years. Over-charging and under-performance are the perceived byproducts of the absence of two or more responsible contractors competing for the same government business. This may have been true in defense contracting in the 1980's but is not and has not been true of Crane & Co. as a supplier to the Treasury.

Crane does not argue that it should be protected as a sole source contractor. On the other hand, it should not be penalized for doing what the Treasury has required, namely to provide a reliable source of the highest quality currency paper available in the world. Unlike any other company in the world, including Portals, Crane is capable of making three different varieties of currency paper to supply the nation's requirements.

It has Cylinder Vat and Fourdrinier machines as well as a third process currently used for the U.S. $100's and $50's. There isn't a currency paper made by any company in the world that Crane cannot supply to the Bureau and no one can supply the range that Crane does.

Crane has tooled up to sufficient capacity to meet not only the minimum quantities the Bureau contracts to purchase, but the maximum quantities that they project to need without making a commitment to purchase. This capacity was developed for and has been contractually committed to the Bureau without a reciprocal commitment to purchase that full capacity. The Bureau commits Crane to be prepared to provide both minimum and maximum quantities of paper, but the Bureau only commits itself to purchase the minimum quantities.

In the last seven years, the Treasury has twice changed the basic character of U.S. currency, other than the $1 note, and that has required Crane to develop equipment and processes to meet the Bureau's needs. This developmental and retooling effort had to occur before any contract was issued to purchase the newly designed paper (note the Treasury's testimony in July of 1994 before the House Banking Committee on the schedule for new currency). In short, Crane's investment of money and effort to support the Bureau helped bring these programs on line, but had to be made prior to a contractual commitment from the Bureau to actually purchase the paper. There are other ways that a dedicated currency paper supplier supports the national interest, and the Bureau and the Secret Service can furnish such information.

Crane does not offer these as reasons for Congress to endorse a sole source arrangement as the company strongly supports the concept of competition. However, Crane should not be criticized for being the sole source when the company has simply committed itself to supplying what the Treasury needed and required.

RISK

Some have suggested that the country is at risk if there is only one source of a strategically important item like currency paper. Crane's answer is that the risk is small, containable and acceptable when compared with the cost and destabilizing effect of artificially creating a second source. No other country has dual domestic sources, because no other country evaluates the risk of a sole source as strategically unacceptable.

To address reliability of supply issues, Crane maintains its facilities extremely well and has redundant parts as well as multiple paper machines in multiple locations. Furthermore. the Treasury can and should stockpile a strategic reserve of currency paper. All such paper would ultimately be used so there would be no waste associated with such a stockpile, and the cost of buildup would be much less than seeking to artificially stimulate a market already open to competition.

Finally, the Conte Amendment and the thinking behind it only requires domestic procurement when there is a domestic source available. If an interruption in availability of supply occurs, which hasn't been anticipated by redundancy or by strategic reserves, the Treasury is authorized to turn to international markets for currency paper.

PERFORMANCE

Crane & Co. supplies a raw material that is designed to support one of the Federal Government's few manufacturing processes—the printing of currency. It is designed to perform well as finished currency—to have a long life, to have a consistent "feel" and to promote counterfeit deterrence. Crane's paper, and the customer service that supports the product and the BEP, is also designed to yield the most efficient manufacturing of currency by the Bureau. Any cost analysis of currency paper must take into account the extent to which the raw material, as delivered, promotes efficient manufacturing by the Bureau. Performance is not an abstract concept but one that matters for production efficiency as well as cost savings from long life in circulation and counterfeit deterrence.

PRICE

Crane firmly believes that the prices it negotiates with the Bureau are fair and reasonable to the government. From 1965 until 1991, when one uniform product was furnished to the Bureau, the negotiated price increased less than the rise in the cost of living and the price itself was comparable to Crane's business stationery.

From 1991 to 1995, when currency paper developed into three distinct products with much greater sophistication, prices were negotiated through arbitration. The arbitrator, Professor Ralph Nash, was selected by the Treasury and is a recognized expert in government contracting. In 1995, Professor Nash determined the prices for 1991 to 1995 deliveries with a retrospective summary of Crane's production costs in front of him. It was his task to determine what profit was appropriate for these contracts, and Crane and the Bureau each believed that his final determination was fair and reasonable. The Bureau confirmed its agreement with the determination, in writing.

In analyzing Crane's business performance from 1991 to 1995, Professor Nash concluded that Crane had driven down the manufacturing cost of currency paper during that period, and had conducted its operations as if there had been actual competition. Professor Nash is the only neutral person who has ever analyzed Crane's costs, profits, and prices. His conclusions should be accorded far greater weight than the opinions of people who might have a preconceived point of view or competitive interest, or who have not had access to all of the relevant facts.

In the absence of other competitive bidders, Crane would be comfortable having final contract prices determined by an arbiter of Professor Nash's experience, stature and neutrality. Such an arrangement would put to rest any concerns that the government pays a fair price for its paper.

CONCLUSION

With the passage of the fiscal year 1997 Supplemental Appropriations Bill and the requirement in that bill for a GAO study of the procurement of U.S. currency paper, there is an opportunity to analyze the complex business of currency paper manufacturing and procurement. Contrary to impressions created by misinformation, a significant body of material already exists. In the end, however, it is important that policy makers be assured through an objective GAO review of the facts, that U.S. currency paper is produced under the most secure arrangements possible, and at a fair and reasonable price.

Crane & Co. is fully prepared to do its part to get the facts on the record in an objective fashion so that the currency paper business can be properly analyzed and understood and the public interest served.

PREPARED STATEMENT OF CHRIS KOELFGEN, PRESIDENT, NATIONAL ASSOCIATION OF FOREIGN-TRADE ZONES

Mr. Chairman and Members of the Subcommittee: On behalf of the National Association of Foreign-Trade Zones, thank you for the opportunity to present this statement to the Subcommittee concerning the fiscal year 1998 appropriation for the U.S. Customs Service.

The NAFTZ is a non-profit trade association representing over 600 members, including grantees, operators, users and service providers of U.S. foreign-trade zones. Today there are more than 200 approved zone projects located in 49 states and Puerto Rico. The total value of merchandise received at foreign-trade zones annually exceeds $140 billion. Over 2,800 firms utilize foreign-trade zones and employment at facilities operating under FTZ status is over 300,000. The NAFTZ provides education and leadership in the use of the FTZ program to generate U.S.-based economic activity by enhancing global competitiveness.

There are three issues concerning the U.S. Customs Service that we would like to bring to the Subcommittee's attention. They are of vital concern to our members and directly impact the efficient administration and reporting of international trade in U.S. foreign-trade zones. The issues are:

—(1) Automation of the FTZ admission process;
—(2) Expanded Customs weekly entry procedure; and
—(3) Training of Customs personnel in FTZ procedures.

AUTOMATION OF THE FTZ ADMISSION PROCESS

The National Association of Foreign-Trade Zones seeks automation of the FTZ admission process as part of the existing ACS system, or as an initial priority under the new Customs ACE system currently under development. As of December 1996, Customs' projection for automating the FTZ admission procedure estimated the process as part of the fifth and final phase of ACE implementation. Under this scenario, it is unlikely that the FTZ admission process will be automated in the next 5 years.

With the significant amount of economic activity moving through foreign-trade zones, the continued manual filing of the Customs Form 214 is burdensome and inefficient for government and industry. The NAFTZ seeks Congressional assistance to mandate the automation of the FTZ admission process. If additional funding is required to provide for Customs to implement this procedure, the NAFTZ requests that Congress take appropriate action.

The NAFTZ has been pursuing Customs automation of the FTZ admission process since the early 1980's. Today, the CF 214 is the only Customs form used nationwide, in large quantity, on a daily basis, that cannot be transmitted to Customs electronically. This form provides notice to Customs that merchandise has arrived and been admitted to the zone. The U.S. Census Bureau also collects a statistical copy of this form.

The U.S. Customs Service was committed for years to automate the FTZ admission process under the existing Customs Automated Commercial System (ACS). This process was never implemented. When the new Customs Automated Commercial Environment system (ACE) was conceived, Customs committed to automating the FTZ admission process during Phase 1 of ACE development. We now understand that the FTZ admission process has been pushed back to Phase 5 of ACE development. Customs' delay in automating the FTZ admission process is particularly disturbing in light of the fact that in each review of an application for a new zone since the mid-1980's Customs has required that zone operators sign a statement committing to the establishment of an electronic interface with the U.S. Customs Service. Customs has stated that it will not activate any portion of an approved zone if the electronic interface has not been established.

Currently, all FTZ admission data must be manually typed into the existing Customs system, the Automated Commercial System (ACS), by Customs personnel at individual ports, upon receipt of the C.F. 214. This FTZ admission information enables Customs to determine that merchandise is no longer moving in-bond under the carrier's liability, and that merchandise has arrived at the zone, thereby transferring liability to the foreign-trade zone operator's bond. Re-typing, the only procedure currently available to the U.S. Customs Service, creates an enormous burden and an incredible amount of duplicate data entry nationwide for Customs personnel.

If the FTZ admission process were automated, all of this data could be transmitted electronically. In an environment of significant increases in international trade, coupled with a shrinking pool of resources, U.S. Customs Service personnel can and should be better utilized.

As previously mentioned, other agencies depend on the U.S. Customs Service for data collection. The U.S. Census Bureau has voiced ongoing concerns regarding problems associated with Customs' manual collection of FTZ admission data. In many instances, the U.S. Census Bureau is not receiving the timely and accurate data it needs from the Customs Service to fulfill its reporting responsibilities. The Food and Drug Administration (FDA) has also indicated a need for admission data to be transmitted electronically. Currently, FDA notification is tied to Customs entry, which occurs when merchandise is removed from the zone. The FDA has been unable to link its notification requirement to the admission of FTZ merchandise because Customs has not automated this process.

EXPANDED CUSTOMS WEEKLY ENTRY PROCEDURE

Proposed regulations were published in the Federal Register on March 14, 1997. The National Association of Foreign-Trade Zones seeks final regulations and general implementation of this procedure for all foreign-trade zone users that meet the established criteria.

The NAFTZ has been pursuing U.S. Customs Service implementation of an expanded weekly entry foreign-trade zone procedure for distribution operations since 1990. Title VI of the North American Free Trade Agreement Implementation Act (Public Law 103–182, 107 Stat. 2057), which included the Customs Modernization Act, was enacted on December 8, 1993. Section 637 of the Customs Modernization Act, amended 19 U.S.C. 1484 concerning the entry of merchandise, by providing statutory support for expanding the weekly entry procedure.

This procedure extends the current Customs regulations, which allow for weekly Customs entry of manufactured goods removed from a foreign-trade zone. The new expanded procedure allows for goods stored in a foreign-trade zone for the purpose of warehouse and distribution to be removed from the zone under a weekly Customs entry process. This expanded procedure further reduces paperwork and document processing by the U.S. Customs Service, while facilitating the movement of cargo through zones for companies that meet certain criteria established by the U.S. Customs Service.

The criteria established by the U.S. Customs Service in the proposed regulations requires foreign-trade zone users to employ electronic entry filing and excludes weekly entry of restricted or quota status merchandise. In order to qualify, the particular zone operation must be fairly predictable, continuing and repetitive, and relatively fixed in variety by the type of merchandise and the nature of the business conducted at the site. The Port Director is provided discretion in approving the application to utilize the expanded weekly entry procedure. Once approved, instead of filing multiple Customs entries per day or per week, this procedure allows foreign-trade zone users to file one entry covering a seven-day consecutive period.

This procedure is critical for foreign-trade zone users operating in just-in-time inventory environments because it allows for prompt shipment of merchandise from the zone. At the same time, the procedure reduces the number of entries that Customs must process and encourages automated filing. The proposed pilot program, implemented in September 1994 to test the new procedure at a selected number of foreign-trade zones, has been evaluated by the U.S. Customs Service as a success.

Expanding the weekly entry procedure will reduce the overall volume of paper or reports the U.S. Customs Service must manage without impairing the enforcement and revenue protection responsibilities of the agency. The automation of the zone admission procedure, along with this reduction in the volume of entries filed will generate a significant improvement in the accuracy and efficiency of U.S. Customs Service operations.

TRAINING OF CUSTOMS PERSONNEL IN FTZ PROCEDURES

In order to ensure that the efforts of the joint steering committee are implemented, the NAFTZ requests that Congress appropriate funds for the training of Customs personnel. If additional funds are not available, the NAFTZ requests that Congress make a statement about the importance of allocating existing Customs appropriations for training. An explicit reference related to the need for Customs training on foreign-trade zones should be included.

Under the reorganization of the U.S. Customs Service, Port Directors have now been given responsibility for all of the foreign-trade zone functions formerly carried out by the District Directors of Customs under the previous organizational scheme.

Port Directors are facing these additional responsibilities with little or no training on specific trade programs, including FTZ's.

At the same time that Port Directors are being challenged to make decisions without appropriate training, Customs Headquarters has reduced its staff by one-third, with further reductions ahead in the future. This sequence of events has made it difficult, if not impossible, for Port Directors to receive timely responses to requests for internal advice on foreign-trade zone issues. As a result, foreign-trade zone users have experienced ad hoc decision-making by Customs personnel on a port by port basis. The effect of this decision-making is a lack of uniformity in Customs' administration of the foreign-trade zones program.

To respond to this problem, the NAFTZ is currently participating on a joint steering committee with Customs to develop training for Port personnel on FTZ issues. Among the initiatives being undertaken, the steering committee is developing a traveling seminar. It is proposed that the traveling seminar will be taught by Customs personnel at various ports where port personnel can attend at minimal cost to the government. Because of the significant economic activity taking place in zones, it is imperative that each Customs Port Director have at least the same level of competence as the former District Director.

Training is an important ingredient for improving any organization's operational efficiency. Training is particularly central when an agency is undergoing a massive transition such as that experienced by the U.S. Customs Service. However, we know from practical history that training budgets tend to be a prime target for reductions and eliminations. The NAFTZ believes that an investment in staff training constitutes the only way the U.S. Customs Service will emerge from this transition as an agency that can perform all of its responsibilities effectively.

Thank you for your consideration of these issues. If we may answer any questions or provide further information, please contact us at 202–331–1950.

PREPARED STATEMENT OF SHARPE JAMES, MAYOR, ON BEHALF OF THE CITY OF NEWARK, NJ

Newark, New Jersey, the largest City in the state, is a regional hub of State and Federal government operations, as well as home to municipal and County government. The Federal presence includes such locations as office buildings, courts and postal facilities. Thousands of visitors and employees access Federal services in Newark daily, and their safety and security has become an important issue for the City.

In the aftermath of the tragedy in Oklahoma City, extraordinary security measures were put into place around Newark's Federal complex. Streets through and surrounding the buildings were closed, metered parking spaces were eliminated, and an additional municipal Police presence was established. As time has passed, these actions have become part of an overall permanent Federal security plan for the area. Since Newark's Police Headquarters, Municipal Courts, and City Hall itself are immediately adjacent to the Federal complex, forming what is called Government Center, the Federal plan has had a marked impact on the ability of citizens to access not just Federal services, but Municipal ones as well.

The City government has worked cooperatively with Federal authorities on this critical issue over the past two years, and the City has absorbed the expenses of these measures. However, we are seeking your assistance in recovering costs that the Newark municipal government has incurred in advancing the security of Federal facilities.

The local Federal officials have requested the permanent closing of five (5) streets to vehicular traffic, and that the streetbeds be deeded over to the Federal government to allow permanent access control. An independent appraisal has valued this property at $3 million. In addition, the City has lost revenues from 21 parking meters surrounding the Peter Rodino Federal Building, which had been high turn-over spaces, as well as from longer-term parking on adjacent streets. Further, summons revenue in the area has been eliminated, while Police overtime and patrol costs have skyrocketed, averaging at least $13,000 per month. The street closings have dramatically shifted both the traffic and parking patterns in the Government Center area, causing further congestion and delays in the already clogged area, and when they become permanent, the City will have to make a substantial expenditure for traffic engineering items such as traffic studies, resignalization and signage replacement. It is estimated that the total of all of these expenses has exceeded four million dollars ($4,000,000). We are seeking the assistance of this committee in securing compensation for these expenditures.

In a related matter, several years ago it was recognized that the United States Post Office distribution facility in the Federal complex had become crowded and obsolete. In an effort to save Newark-based jobs and comply with the intent of Executive Order 12072, which directs federal agencies to be located in downtowns, the City of Newark entered into discussions with postal officials about locating a new mail handling facility in the heart of Newark's major redevelopment area. The original concept was for the USPS to acquire over 17 acres for the 300,000 square foot operation, to employ 1,200 workers. However, our current realities of downsizing and budget cutting have impacted on this project too.

Current plans for a site of only 4.5 acres to house a much smaller and less ambitious project. It will now accommodate the functions of the relocated 07103 branch facility, which is situated within the University Heights redevelopment area. A new Post Office in this neighborhood will service the thousands of new housing units-public, private, market-rate and low-income—which have been or will be constructed in the area. It is estimated that site acquisition, required relocations, site preparation and construction of a modern postal facility will cost five million dollars ($5,000,000). These funds will be the first Postal Service investment in a Newark neighborhood in decades, and show, in bricks and mortar, the Federal commitment to Newark, its people, and its jobs.

To conclude: I ask you for help in coping with the changing situation in Newark. It is my understanding that GSA has requested $250 million to upgrade security at Federal facilities throughout the country. We support that request, and urge the Subcommittee to include language in the bill that will direct some of these funds to be spent on the projects noted above.

We have felt the ripples of the impact of a terrible tragedy, and ask for your help in dealing with them. And we have built a new neighborhood, with much Federal assistance, and ask for your help in completing a community by providing an essential service to its residents. Your help today can make the difference.

LIST OF WITNESSES, COMMUNICATIONS, AND PREPARED STATEMENTS

Page

Aikens, Joan D., Vice Chairman, Federal Election Commission, prepared statement 578
Attianese, David, Assistant Director, Tax Group, General Accounting Office ... 415

Barram, David J., Administrator, General Services Administration, prepared statement 599
Berne, Bernard H., M.D., Ph.D., prepared statement 639
Bolden, Betty, Chair, Federal Services Impasses Panel, Federal Labor Relations Authority, prepared statement 593
Bowron, Eljay B., Director, U.S. Secret Service 144
Memorandum from 194
Prepared statement 144

Calahan, Richard, Deputy Inspector General, Department of the Treasury 181
Campbell, Hon. Ben Nighthorse, U.S. Senator from Colorado, prepared statement 316
Carlin, John W., Archivist of the United States, National Archives and Records Administration, prepared statement 620
Cottos, James, Assistant Inspector General, Investigations, Department of the Treasury, memorandum from 189
Coverdell, Hon. Paul, U.S. Senator from Georgia, prepared statement 175
Crane, Lansing E., chairman and chief executive officer, Crane & Co., prepared statement 648

Dolan, Michael P., Acting Commissioner, Internal Revenue Service 437
Prepared statement 443
Donelson, James E., Chief, Taxpayer Service, Internal Revenue Service 437

Erdreich, Benjamin L., Chairman, Merit Systems Protection Board, prepared statement 615

Faircloth, Hon. Lauch, U.S. Senator from North Carolina, prepared statement 350

Glenn, Hon. John, U.S. Senator from Ohio 1
Prepared statement 11
Gregg, Richard L., Commissioner, Bureau of the Public Debt, prepared statement 543
Gross, Arthur A., Chief Information Officer, Internal Revenue Service 437

Kelly, Raymond W., Under Secretary, Enforcement, Department of the Treasury 81
Prepared statement 86
Kerrey, Hon. J. Robert, U.S. Senator from Nebraska 399
Prepared statement 407
King, James B., Director, Office of Personnel Management, prepared statement 628
Koelfgen, Chris, president, National Association of Foreign-Trade Zones, prepared statement 652
Kohl, Hon. Herb, U.S. Senator from Wisconsin, prepared statement 84

Lau, Valerie, Inspector General, Department of the Treasury 51, 181
Letters from 185
Memorandum from 192
Prepared statements 52, 181

Page

Mader, David A., Chief of Management and Administration, Internal Revenue Service 51, 437
Magaw, John, Director, Bureau of Alcohol, Tobacco and Firearms 91
Prepared statement 92
McCaffrey, Gen. Barry R., Director, Office of National Drug Control Policy 315
Prepared statement 323
McFarland, Patrick E., Inspector General, Office of Personnel Management, prepared statement 630
Morris, Russell D., Commissioner, Financial Management Service, prepared statement 545
Morris, Stanley E., Director, Financial Crimes Enforcement Network 132
Prepared statement 133

Posey, Ada L., Acting Director, Office of Administration, Executive Office of the President, prepared statement 560
Potts, Stephen D., Director, Office of Government Ethics, prepared statement 627

Richardson, Margaret Milner, Commissioner, Internal Revenue Service 51
Prepared statement 58
Rinkevich, Charles, Director, Federal Law Enforcement Training Center 118
Prepared statement 119
Rubin, Robert E., Secretary, Department of the Treasury 548
Runyon, Marvin, Postmaster General/Chief Executive Officer, U.S. Postal Service, prepared statement 634

Segal, Phyllis N., Chair, Federal Labor Relations Authority, prepared statement 589
Sharpe, James, mayor, city of Newark, NJ, prepared statement 654
Shelby, Hon. Richard C., U.S. Senator from Alabama, prepared statement 421
Stillman, Rona B., Chief Scientist, Computers and Telecommunications, General Accounting Office 41, 415
Prepared statement 43
Summers, Lawrence H., Deputy Secretary, Department of the Treasury 13, 437
Prepared statements 16, 439
Swerdzewski, Joseph, General Counsel, Federal Labor Relations Authority, prepared statement 597

Thompson, Jeff, chief of Government Relations for Don Novey, State president, California Correctional Peace Officers Association, letter from 77
Tobias, Robert M., national president, National Treasury Employees Union, prepared statement 4
Letter from 78
Tunheim, Judge John R., Chairman, Assassination Records Review Board, prepared statement 570

Weise, George, Commissioner, U.S. Customs Service 108
Prepared statement 109
White, James R., Associate Director, Tax Policy and Administration Issues, General Accounting Office 415
Prepared statement 425
Willis, Lynda, Director, Tax Policy and Administration, General Accounting Office 41

SUBJECT INDEX

DEPARTMENT OF THE TREASURY

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

U.S. CUSTOMS SERVICE

FEDERAL LAW ENFORCEMENT TRAINING CENTER

FINANCIAL CRIMES ENFORCEMENT NETWORK

U.S. SECRET SERVICE

	Page
Administrative recordkeeping	202
Advanced fee fraud	170
Air interdiction	159
Border fences	158
Border Patrol	153
Budgetary process estimates	176
Canine explosive detection	165
Case tracking document	190
Case tracking form	200
Amended	206
Failure to provide original	206
Congresswoman Collins' request	201
Counterfeit currency	171
Counterfeiting	178
Crime bill funding	174
Crime prevention	150
Discount policy	176
Drug seizures	156
E-mail message	203
Environmental:	
Changes	173
Requests	172
Executive order	210
Federal Law Enforcement Training Center:	
Budget request	118
Commitment and support	119
Cost savings	118
Growth	118
Initiatives	119
Number of graduating students	118
Financial Crimes Enforcement Network:	
Fiscal year 1998 budget request	132
Money laundering	132
Funding workload increases	172
Gang Resistance Education and Training [GREAT] Program	162
Immigration and Naturalization Service participation	173
Integrity Committee, referral to	207
Intigrated ballistic identification system [IBS]	165
Intimidating future witnesses	208
Investigation:	
Initiated on October 2	204
Status of	184

Page

Master plan funding 173
Militia movement in the United States 169
National Center for Missing and Exploited Children 178
New interdiction technologies 160
Office of National Drug Control Policy, relationship with 179
Office of Professional Responsibility 155
Oklahoma City bombing 164
Operation Hardline 152
Overestimating numbers, solution to 176
Potential criminal investigation, concerns about 199
Privacy rights, concerns about 189
Record, attempt to clarify 188
Secret Service, response to 192
Security 168
Small law enforcement agency training 174
Smuggling 154
Standard operating procedure 207
State and local requirements 175
Submitted questions 210
Suspicious activity reporting system 177
Task forces 170
Temporary facility 173
  Cost of 174
Train-the-trainer, benefit of 174
Trigger locks 164
Youth crime gun interdiction initiative 161, 167

INTERNAL REVENUE SERVICE

Appropriations, accountability for 467, 471
Automatic security programs 55
Browsers, IRS treatment of 63
Browsing 13
  In 1994 27
  Penalties for 23
  Punishment for 64
  Reasons for 65
  Repeat 62
  Safeguards against 61
Colorado Springs, small business in 462
Computer modernization efforts 460
Disciplining unauthorized access 56
Earned income tax credit fraud 466
Employee education 56
Expenditures, justification for 470
General Accounting Office recommendations 460
Inappropriate browsing through taxpayer files 3
Inspector general, role of 65
Internal Revenue Service:
  Browsing at 20
  Browsing of tax records by employees 51
  Disposition of browsing cases 30
  Management failures at 21
  Prime contractor 22
  Reduction of funding 464
  Seasonal employment 30
  Stopping browsing at 24
  Supervision of employees 25
  Treasury:
    Executive attention to 23
    Five point plan for 437
    Oversight of 464
    Plan to improve 14
Modernization, new leadership for 469
New modernization management 460
Private debt collection 461
Problems, extent of 57
Qualifications for next Commissioner 64

Page
Submitted questions 32, 66, 472
Tax records:
Privacy of 24
Unauthorized access to 55
Tax refund offset program 465
Tax systems modernization 28, 62
Accountability for 29
Cost of 28
Taxpayer bill of rights 26
Year 2000 date conversion 439, 465, 470
Zero tolerance policy 60

EXECUTIVE OFFICE OF THE PRESIDENT

Office of National Drug Control Policy

Ad campaign 320, 339, 344
Budget 320
Certification 352
Drug legalization 353
Extraditions 348
High-intensity drug trafficking areas 342
Incarceration 337
Marijuana use 346
Methamphetamine labs 351
Performance measures 355
Prison system 322
Prison, drugs in 341
Submitted questions 357
Youth prevention programs 339

GENERAL ACCOUNTING OFFICE

Browsing, degree of seriousness about 47
Debt collection practices 422
Developmental information system 416
Fiscal year 1997 issues 415
Snoop or browse, capabilities to 46
Tax systems modernization project, funding for 48
Year 2000 date change 416

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