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BUILDING SAFER COMMUNITIES: THE IMPORTANCE OF EFFECTIVE FEDERAL-LOCAL COLLABORATION IN LAW ENFORCEMENT

HEARING

BEFORE THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

ONE HUNDRED TWELFTH CONGRESS

FIRST SESSION

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MONDAY, JUNE 20, 2011

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Committee met, pursuant to notice, at 11:08 a.m., Second Floor Auditorium, Carvel State Office Building, 820 N. French Street, Wilmington, Delaware, Christopher Coons presiding.

Present: Senator Leahy.

OPENING STATEMENT OF HON. CHRISTOPHER COONS, A U.S. SENATOR FROM THE STATE OF DELAWARE

Senator COONS [Presiding]. Good morning, ladies and gentlemen. It is an honor to convene this hearing of the Senate Committee on the Judiciary.

I would like to thank Chairman Leahy for allowing me the privilege of doing so and for joining us here in Wilmington today.

It is also an honor to welcome some of our distinguished guests this morning, the five who will testify before this field hearing and many others from the law enforcement community who have joined us here in the audience.

I know I will miss a few. Hopefully, you will forgive me. But before coming up to begin the hearing, I had noted the presence of Delaware's United States Attorney, Charles Oberly; our United States Marshal, Joe Papili; Senior Agent in Charge Jeff Garvin from the United States Secret Service; Chief Zerba from the city of Wilmington; Chief McGowan from the New Castle County Police; Chief Collins from Selbyville; Chief Tjaden from Delaware City; Sheriff Trinidad Navarro; and Kurt Reuther, representing Secretary Schiliro of the Delaware Department of Homeland Security. And I believe, also, Representative J.J. Johnson.

Please, if you would, a round of applause for all the folks who have joined us here today to be a part of this field hearing.

[Applause.]

Senator COONS. I would also like to thank the distinguished panel of witnesses who have come here today to share with us their experience through the years of policing and justice assistance. They have much to teach us about how State and federal law enforcement can work together to make levels of law enforcement from federal to State to county to local much more effective and col-

laborative as they work together and share intelligence and resources.

I wanted to hold this hearing here in Delaware because our State has a strong history of working together with its federal partners to deliver safer communities for our citizens. We have a lot we can be proud of.

When I mention the topic of federal assistance to local law enforcement, one of the first things people think of is the number of police hiring programs, first established in 1994 through legislation authored by then-Senator Joseph Biden, some known as COPS programs, but under many different names over many years.

This legislation has provided state and local police with the funding they need to hire or retain officers who would otherwise have to be let go due to budget challenges.

Also, since the passage of the Violent Crime Control and Law Enforcement Act of 1994, federal funding has created or helped save 486 police officer positions in our State of Delaware, certainly one of the signature federal-local partnerships.

Less visible than federal funding assistance, but no less important, is the dramatic change by the FBI and State and local police and how they work with one another. 9/11 taught us that the old way of doing business, when each police department, law enforcement, or intelligence agency acted as an island unto itself was counterproductive and, indeed, in the context of 9/11, even dangerous.

Building off the lessons of the attacks of 9/11, Delaware police and their federal partners have created a system of collaborative policing that builds on the strengths of each. State and local police remain at the front line of law enforcement, protecting our communities. Their greater numbers and familiarity with the communities in which we live and in which they serve make them ideally suited to carry out their critical public safety and policing missions.

Being a small State, Delaware's police face unique opportunities and challenges. Delaware's size lends itself naturally to a closely knit, highly adaptable law enforcement community. At the same time, many of our police departments, particularly some of our municipal departments in the southern part of the State, are small and, as a result, can at times lack the resources needed to develop highly specialized techniques or units that might be needed to deal with organized crime or other relatively rare serious crimes that have serious consequences.

In addition, Delaware, particularly in its northern region, may find itself a victim of crime that has its roots out of state in our region, where Delaware police lack the authority to investigate crimes or make arrests.

Meeting these challenges requires real collaboration with our federal partners. The FBI is this Nation's largest law enforcement agency, with a strong tradition of taking on the most serious criminal threats posed to this Nation.

The FBI has national jurisdiction and is able to act across State lines. The FBI also has a core mission of national security and counterintelligence.

Through its working relationships at the federal level with the NSA, CIA, and DHS, FBI has access to an unparalleled trove of in-

formation regarding both terrorist threats and criminal threats. While the FBI's resources are tremendous nationally, there are only 23 full-time FBI agents here in Delaware compared to the more than 2,000 full- and part-time State and local police officers confronting the nearly 96,000 serious crimes in Delaware each and every year.

FBI's Delaware profile is small in proportion to the total threat. This has led the FBI to rely on Delaware law enforcement as a force multiplier and Delaware law enforcement to rely on the FBI and other federal partners as key sources of information and resources in the fight against crime.

In the context of national security, FBI leverages local authorities by sharing classified threat intelligence with local police chiefs through monthly policymaker briefings, the Delaware Information and Analysis Center, or DIAC, and the Joint Terrorism Task Force.

By sharing this information, the FBI is able to gain thousands of eyes on the street and the front lines of homeland security. As we saw in New York following the Times Square bombing attempt just last year, State and federal law enforcement have significantly improved the flow of information between them in both directions.

Intelligence-led policing, similarly, benefits our National security and relies on effective communication and collaboration between Federal, State, and local law enforcement and our National security agencies.

With intelligence-led policing, law enforcement agencies use crime data and computer modeling to predict crime and make better use of their available resources.

The data and reports that intelligence-led policing creates have the potential to be of enormous value to the counterterrorism mission as well, but only if that data can make its way from State and local police departments to the federal national security agencies.

So overall, the goal of this hearing is to examine how well federal and local collaboration, including both information-sharing and funding support, is working using Delaware as a model. We will examine Delaware's fusion center, which serves as the information and analysis nerve center, for information at every level that affects Delaware's public safety.

We will also examine the use of joint task forces which our local police and federal partners have established to bring a merged operational focus to counterterrorism, as well as to keeping our streets safe from gangs, drugs and guns.

We will also look at formal information-sharing arrangements. While Delaware's small size and the much-vaunted Delaware way of doing business have helped allow Delaware to innovate in these informal partnering arrangements, they can also serve, I believe, as models for States of any sizes.

I am delighted to be joined here today by our Committee's Chairman, Senator Leahy of Vermont, and by our distinguished panel of witnesses.

Chairman Leahy, himself four times elected to a prosecutorial position as State's Attorney for Chittenden County in Vermont, is the only Democrat ever elected to the Senate from the State of Vermont, has served now 36 years, was the youngest elected Senator in Vermont history when elected at the age of 34, has made

landmark advances in protecting our entire Nation through his leadership on the Judiciary Committee, and he does all of us a great honor by joining us here today.

Chairman Leahy.

STATEMENT OF HON. PATRICK LEAHY, A U.S. SENATOR FROM THE STATE OF VERMONT

Chairman LEAHY. Thank you very much, Senator Coons.

I wanted to come here because, as you heard just from his opening statement, Senator Coons has such a great grasp of what the issues are in something like this. I rely on him a lot. He has chaired a number of significant hearings in the U.S. Senate and does it in a way that it makes a difference.

I think his strong commitment to supporting state and local law enforcement comes across very, very well. And one of the reasons I had urged him—when he came to the Senate, I urged him to come on the Senate Judiciary Committee. I said, "We have areas we can work with State and local and federal law enforcement. For me, it is a passion, and you can be very helpful." And he agreed and came there.

So then the last time I was in this city, I was with another Senator from here, but he left to take a job with the executive branch and found a better way to travel than taking the train every day like he used to.

[Laughter.]

Chairman LEAHY. I found the train great coming up here today.

But we are going to hear how our federal and State law enforcement work together to keep our streets safe. Interagency coordination and information-sharing, especially today, is more important than ever. We had the so-called Christmas Day bomber attempt to detonate an explosive on the flight in 2009, and our intelligence agencies knew his identity, but the information had not been passed out. So he was not on the watch list.

Fortunately, it failed to detonate or all the people flying to Detroit that day would have died. And I agree with President Obama that that was a systemic failure. I was pleased to see the Administration work very quickly to fill those gaps.

But we have to do this all the time to piece together the information we have. The local police, the State police, the federal authorities, there is a lot of information there and, as you all know, those of you who handle criminal cases, you know sometimes the case only gets solved when all those little pieces are put together.

But I think that, also, continuing federal support for State and local law enforcement is extremely important. The Congress is focused on how to continue the economic recovery. One effective way to both protect our citizens and create jobs is to bolster federal resources for State and local law enforcement.

When neighborhoods become safer, property values rise, local economies prosper. That has happened everywhere. Now, like Vermont, Delaware is a small State, where neighboring jurisdictions are close by and States are close by, and cooperation and interoperability are especially critical among State and federal partners.

My attention to information-sharing and law enforcement safety was shaped significantly by the Carl Draga incident in Vermont and New Hampshire. Right along the border of our two States, in August 1997, four people were killed, including two New Hampshire State police officers. Three other law enforcement officers were wounded, one grievously.

This is indelibly in my mind. The Director of the FBI at that time, Louis Freeh, by coincidence, was staying at our home in Vermont. And it was interesting to watch how everybody came together, but we also saw how we had information-sharing deficiencies. We had radios that could not talk to each other. We had the lack of bullet-proof vests.

So it made the work of these incredibly brave police officers that much more difficult. We acted very quickly, and Senator Judd Gregg, a senior Republican from New Hampshire, and I got together. We passed legislation to provide funding to State and local law enforcement to create communications interoperability.

Senator Ben Nighthorse Campbell of Colorado and I passed the Leahy-Campbell bill, which provided thousands and thousands of bullet-proof vests around this country ever since then.

So I have never lost sight of how important this is. It is one of the best investments we can make in Congress, because crime dramatically affects communities across the country, bigger cities like Wilmington to smaller towns like those in Vermont and Delaware, my own town of 1,500 people.

We have to do what we can to assist the States and communities.

Senator Coons, one, I want to thank you again for doing this, but I also want to thank everybody who has come here on the panel. I suspect every one of you has a million other things you could be doing today. This is actually very helpful, because if we are going to pass legislation, it gives the two of us the chance to go to other Senators in both parties and say, "Here is what we heard."

So thank you. Thanks, Chris.

[The prepared statement of Chairman Leahy appears as a submission for the record.]

Senator COONS. Thank you, Chairman Leahy.

As you can tell, someone with his role as both an authorizer and an appropriator in federal law enforcement-related activity and with his long experience and intense interest is a tremendous resource and ally for us as we try to learn from this panel of distinguished witnesses today and as we move forward.

So, now, I would like to ask the witnesses to stand. Raise your right hand and repeat after me.

[Witnesses sworn.]

Senator COONS. Thank you. Let the record show the witnesses have taken the oath and been duly sworn. Please be seated.

Now, we will proceed with witness introductions and testimony, beginning with Special Agent McFeely.

Richard McFeely was appointed in August 2009 as special agent in charge of the FBI's Baltimore division. Agent McFeely entered on duty as an FBI special agent in February 1990.

Upon completion of training, he reported to the Buffalo division, where he primarily worked in violent crime and street gang matters. He served as a lead Buffalo division case agent, investigating

the Oklahoma City Federal Building bombing in 1995, in part, because the perpetrator was western New York resident Timothy McVeigh.

In 1997, he received the New York Bar Association's Tribute to Valor Award for dismantling a violent street gang that terrorized the citizens of Buffalo.

Special Agent McFeely received his first supervisory field assignment in 1999, supervising a drug squad at the Washington field office. Following the 2001 attack on the Pentagon, he was assigned the FBI's on-scene commander, with responsibility for recovery of evidence and remains.

Following that assignment, Mr. McFeely supervised a Washington field office counterterrorism squad, working extensively with State and local and federal agencies. He was instrumental in setting up a joint intelligence center in 2003 with the Fairfax County Police Department and other local agencies in an effort to increase the information sharing that is exactly our focus today.

In 2005, he received the Director's Award for his outstanding counterterrorism investigation for his efforts in supervising a multinational investigation into an assassination plot against a foreign Head of State.

Mr. McFeely has strong Delaware roots as well, having earned his B.S. degree in criminal justice from the University of Delaware in 1985 and a J.D. from Delaware Law School in 1989.

He is married, has three children, has resided in the Annapolis area for more than 13 years, and he honors us by his testimony today.

Mr. McFeely, please proceed.

STATEMENT OF RICHARD MCFEELY, SPECIAL AGENT IN CHARGE, FEDERAL BUREAU OF INVESTIGATION, BALTIMORE DIVISION, BALTIMORE, MD

Mr. MCFEELY. Thank you, Senator. Good morning, Chairman Leahy, Senator Coons, distinguished guests.

Senator Coons, I'll start right off by saying that your opening statement was spot on.

I appreciate the opportunity to be here today to discuss probably one of the single most important issues facing the FBI, and that is exactly how do we get the information pushed out to our State and local law enforcement partners that's going to keep this country safe.

As you look down the long road that the FBI has traveled since 2001, I believe you will see certain milestones that have defined significant accomplishments in both our philosophy and our actual capabilities on information sharing.

But I don't want to paint the illusion that we have reached the end of the road. We are driving a vehicle that must not only be driven faster, but at the same time, stay between the guardrails as to what we are legally permissible to share.

The FBI has formalized a strategy that provides a foundation to shape and implement numerous information-sharing initiatives with our many mission partners, federal, State, local, tribal, foreign governments, and private-sector stakeholders, while, at the same time, protecting privacy and civil liberties of our citizens.

Given the unprecedented threat against our homeland by terrorist groups, I want to highlight this area first, especially since there is no other area that I can think of that has galvanized and inspired law enforcement to come together and share everything that we have in order to keep our country safe.

Since I oversee FBI field operations in Delaware and Maryland, I'm going to discuss specific initiatives relative to these two States. However, what I'm describing has been mirrored across the country.

First and foremost, in order to be effective as one law enforcement community, our partners must be educated to the threat. To do this, they must have access to the same information that I see every day as part of my daily threat briefing.

We accomplish this most effectively through the partnerships of the joint terrorism task forces, the JTTFs. Between my two States, I have over 50 federal, State and local police agencies assigned to our JTTF squads. In these task forces, individual agency emblems are left at the door. All members of the JTTF have access to the exact same information that FBI special agents have, up to the highest classified level, and cases are opened and assigned regardless of individual agency affiliation.

In fact, one of my Maryland JTTF squads is actually run by a Maryland State Police sergeant. But having a cleared police officer have access to classified threat information without the ability to share that to his or her chief is not a good model for us to address the local threat and certainly not a good model for that officer to get promoted.

Towards that end, I have offered secret clearances to all chiefs and sheriffs within Delaware and Maryland. Many have taken me up on this offer. These policymakers are then given a classified threat briefing at least once a month on what the global terrorism picture is.

We discuss everything from the types of threats, who is making the threats, and what is our response to those threats, which often involves their police agencies.

But I do believe that the real success story in Delaware and Maryland has been through the cooperative nature of the State-run fusion centers. While we have a long way to go nationally, I think that the models for these fusion centers in these two States are simply that, a model to be followed.

Recognizing that no one knows a community better than local law enforcement, in both States we have devised a program where all suspicious reporting from the general public, such as tip lines, or from the cop on the street who's making a road stop, all those leads are first sent to the fusion centers for database checks and initial vetting.

While these leads are then entered into the FBI's Guardian system at this juncture, in both States and in most cases the initial investigation is actually conducted by a State or local police officer or trooper assigned to what we call the Guardian Threat Squad.

This model allows police officers and troopers who already know their communities to best assess whether the activity that's being reported on needs further follow-up.

Through policymaker briefs to the chiefs and direct lead dissemination to the officers and troopers on the street, we have effectively sandwiched our police partners right in the middle of a top-down/bottom-up sharing of information. And in this manner, as you pointed out in your opening statement, we have just forcefully multiplied the eyes and ears of the FBI by thousands of police officers in both States.

I also want to briefly discuss virtual command center, or VCC. The VCC is an unclassified software application that's run on the FBI's Law Enforcement Online, or LEO. It's used by the FBI to share important information during a time of crisis.

It allows us to instantly share critical data to remote users that now don't have to physically show up in order to get updated information. We can share data across a wide range of users, including first responders, emergency planners, and anyone in a crisis management coordinating role.

Moving toward our broader information-sharing posture, I want to just briefly discuss the sharing of actual case data. We do this through the National Data Exchange, or N–DEx. N–DEx is a national criminal law enforcement information-sharing system available through LEO and other Web-based means to law enforcement and criminal justice agencies.

It provides law enforcement agencies with a powerful investigative tool to search, link, analyze, and share criminal justice information on a national basis to a degree never before possible.

N–DEx serves as a repository of information contributed by State, local, tribal, federal law enforcement agencies, including all of the DOJ entities, DEA, the U.S. Marshals Service, ATF.

Data currently consists mostly of incident and arrest reports, but eventually it will include booking, incarceration, parole, probation, and other types of information. N–DEx allows any agency to contribute and share law enforcement information with any other agency that has access to the Internet.

Currently, there are 8,000 registered users and a total of 101 million records by 23 major local, State, regional and federal criminal justice agencies. Delaware is a signatory to the N–DEx.

In conclusion, the days of the FBI seeking to close hold information are long gone. The bulk of our agent and analytical core have been hired since 2001. The only FBI that they know stresses the importance of pushing out information to those that need it.

But while we have made great strides, we have a long way to go. There are still many disparate databases that don't talk with each other. Information coming from our partners in the intelligence community often is restricted, which makes sharing difficult. These restrictions aren't random. They are used and put in place to protect the sources and methods that were used to collect that information.

Because the FBI wears the Nation's dual hat as an intelligence and a law enforcement agency, we are often caught in the middle of how to effectively share in these situations.

And, finally, we must constantly balance our need to share with who should know. As collectors of very sensitive information on our citizens, we must constantly recognize the importance of safeguarding this information; not just to protect the sources and meth-

ods used to collect it, but equally important, to safeguard the very same civil liberties we are trying to protect.

These are the guardrails that I mentioned above. We must all be safe drivers as we continue down this road.

I thank you for the opportunity to come and speak to this Committee today.

[The prepared testimony of Mr. McFeely appears as a submission for the record.]

Senator COONS. Thank you very much, and thank you for that testimony. And we look forward to having the opportunity to ask questions of the full panel.

Next, we will hear from Colonel Robert Coupe. Colonel Coupe was appointed by Delaware's Governor as the current Superintendent of the Delaware State Police and, in that role, commands roughly 675 troopers and 270 civilian employees.

Colonel Coupe began his career in 1985 as a patrol trooper. Before his appointment as superintendent, he was Commander of the Criminal Investigative Unit, which oversaw 13 special units comprised of 85 detectives.

Colonel Coupe was a member of the Tactical Control Unit from 1991 to 1995 and served in the DSP Honor Guard from 1988 to 2008. In 2001, Colonel Coupe also assisted in creating the DSP pipes and drums unit and is still a bagpiper with this unit.

Colonel Coupe has an associate's degree in mechanical engineering and will complete his bachelor's in criminal justice at Wilmington University in December of this year.

Colonel Coupe is the youngest of 10 children, has been married to Pamela Angeline Coupe for 24 years, and they have two children, Jocelyn and Tyler.

Colonel Coupe, please proceed.

STATEMENT OF COLONEL ROBERT COUPE,
SUPERINTENDENT, DELAWARE STATE POLICE, DOVER, DE

Colonel COUPE. Thank you. Good morning, Chairman Leahy, Senator Coons. Thank you for this opportunity.

Prior to the current increased emphasis on information and intelligence sharing following the events of 9/11, such formal coordination between federal, State and local law enforcement agencies in Delaware was limited, at best.

While departments would occasionally share case data, there was not a formal practice and was more of dependent on friendships between individual investigators. Such information or intelligence was considered proprietary of whatever agency had collected it and it was not disseminated to neighboring jurisdictions on a regular or consistent basis.

There were no shared intelligence data bases, and most intelligence collection records were kept in a file drawer. These practices were considered normal prior to the rise of intelligence-led policing, which has evolved post-9/11.

Generally speaking, law enforcement agencies did not consistently have access to critical intelligence necessary to investigate criminal cases across jurisdictional lines or between the federal, State and local levels.

Currently, the flow of information between federal, State and local agencies has greatly improved with the establishment of formal interagency relationships between federal liaisons and fusion centers.

For example, the FBI's Joint Terrorism Task Force, or JTTF, provides a formal structure for sharing of investigative details for criminal investigations or for threat streams under the umbrella of counterterrorism.

State and local law enforcement officers are now provided with timely information from a variety of sources, including federal, State and local partner agencies, to facilitate both day-to-day operations and long-term investigations.

Delaware Information and Analysis Center, or DIAC, is the State fusion center for Delaware, utilizing sworn officers, intelligence analysts, and liaisons from federal partner agencies to develop intelligence products for a variety of law enforcement and civilian agencies.

The DIAC was created in the spring of 2005 and it serves as a conduit and a filter for intelligence and other information for the Delaware State Police, as well as federal, State, and local partner agencies, both law enforcement and civilian.

The DIAC is proactive at reaching out to partner agencies and in disseminating intelligence in a fast, efficient manner using a variety of products.

There are several federal agencies that are represented at the DIAC. The Department of Homeland Security, or DHS, has one intelligence officer working at the DIAC. His primary responsibility is to serve as the liaison between the DIAC and federal agencies, as well as to assist in providing real-time situational awareness.

Federal Protective Service, FPS, has one special agent working part-time at the DIAC. Her primary responsibility is to facilitate the flow of information between the DIAC and FPS regarding crime, First Amendment protests, and other activities occurring in proximity to federal facilities, as well as to send any pertinent federal information to the DIAC.

Bureau of Alcohol, Tobacco, Firearms and Explosives, ATF: There is one analyst working at the DIAC. His primary task is to assist with iTrafficking, which is a crime intelligence-sharing pilot program undertaken by the International Association of Chiefs of Police, ATF, and the Bureau of Justice Assistance. It is currently operational in New Jersey and Maryland is being developed in Delaware, New York, and Pennsylvania.

The Federal Bureau of Investigation, FBI, provides information and analytical support to the DIAC via the JTTF. The FBI and JTTF also provide secret-level monthly meetings to law enforcement and executive personnel, as mentioned by SAC McFeely.

In addition, the Delaware State Police and local police departments have officers assigned to work with Drug Enforcement Administration, DEA, U.S. Marshals Service, and ATF in a task force model. This facilitates operational coordination and information sharing across jurisdictional lines.

While the DIAC has been successful in developing important partnerships with the previously mentioned federal agencies, there is still work to be done at the local level. The DIAC is focusing on

providing greater intelligence support to county, city, and local law enforcement agencies in Delaware, while improving its crime mapping capabilities to meet the needs of law enforcement agencies in the State as they move toward intelligence-led policing.

The DIAC is also increasing its outreach to non-law enforcement first responders, such as its intelligence liaison officer program with the fire service in Delaware.

In addition, we are hoping to increase the participation for the use of the Memex intelligence data base that is maintained by the DIAC. It's utilized by all local and State law enforcement.

We believe there is a promising future. We believe that the new culture of intelligence sharing has been established in law enforcement, and that spirit of cooperation presents a promising future of success.

Two simple but significant examples of that success are as follows: On January 7, 2009, the DIAC released a special information bulletin regarding an unidentified bank robbery suspect. The Dover Police Department contacted the Delaware State Police later that morning with a possible name of the suspect and that identity was confirmed several hours later by the State Bureau of Identification using a fingerprint that was found on the bank note.

Similarly, on May 18, 2011, the Delaware State Police homicide unit was investigating a murder that occurred in a motel located just outside the city of Wilmington. Two suspects were identified, but their whereabouts were unknown and they had no permanent address.

Investigators contacted the DIAC to request a multijurisdictional alert to be sent to law enforcement agencies within the region, as well as the fusion centers in the neighboring States.

The resulting special information bulletin was quickly disseminated to the targeted law enforcement agencies and within 24 hours of the bulletin's issuance, patrol officers within the city of Wilmington, working for the city of Wilmington Police Department, located and apprehended both suspects as they stood on a city street, having recognized them from the bulletin. They also recovered a knife that may possibly be the murder weapon used in the crime.

We are grateful for this opportunity to address the panel and we're grateful for your support and we look forward to your continued support.

Thank you.

[The prepared testimony of Colonel Coupe appears as a submission for the record.]

Senator COONS. Thank you, Colonel Coupe. We will next hear from Chief Robert Hosfelt. Chief Hosfelt was hired as a patrolman for the city of Dover in September 1988, was promoted to patrolman first class, corporal, sergeant, lieutenant, captain, and then ultimately deputy chief in 2009.

During his career, Chief Hosfelt has served in the patrol unit as a section leader, and in the criminal investigations unit, serving as a detective in both drugs, vice and organized crime, as section leader and as unit commander. He served in the special enforcement unit in the motorcycle section as a section leader and has served

in the planning and training unit as a drill instructor for the Dover Police Academy and as a firearms instructor.

He has held the positions of operations division commander and public information officer. He served on the special operations response team for 20 years, and during that time was both team leader and ultimately team commander.

Chief Hosfelt is a 1979 graduate of the Allegheny High School in Cumberland, Maryland, and holds an associate's degree in criminal justice from Delaware Technical and Community College.

Chief Hosfelt served in the U.S. Air Force from 1980 until 1987 and is a 2010 graduate of the FBI National Academy in Quantico, Virginia.

Chief Hosfelt resides in Dover with his wife, Sherry, daughter, Jenna, and son, Jacob.

Chief Hosfelt, thank you for testifying today. Please proceed.

STATEMENT OF JAMES HOSFELT, CHIEF, DOVER POLICE DEPARTMENT, DOVER, DELAWARE

Mr. HOSFELT. Thank you. I appreciate the opportunity.

In 1988, when I began my career in law enforcement, there didn't seem to be much in the way of information sharing. Then it was a matter of protecting your interests and it was believed the best way to do this was not to share information.

We, law enforcement, were more concerned about jurisdictions and protecting what was ours than looking at the bigger picture and what was best for everyone.

Fortunately for everyone, this appears not to be the case now, and I believe our specialized units have helped lead the way in this change. From my perspective, different drug units and SWAT teams from local and State law enforcement agencies began working together out of necessity.

They pooled their resources to accommodate long-term investigations. This not only led to the increased information sharing but also to increased training with other agencies as well.

Over the course of my 23 years with the Dover Police Department, technology, in my opinion, has had the greatest impact on information sharing among local law enforcement, State, and federal partners.

Twenty years ago, a police officer was dispatched to a complaint, completed a handwritten report, turned it in to his supervisor, who then sent it to a records division, where it was stored unless it was asked for.

Now, officers are dispatched to a complaint either through a computer or via radio. They complete a computer-based police report and LEISS, which is then available for everyone having access to the system Statewide. The same is true for arrest warrants.

Statewide information and intelligence sharing has increased significantly because of the Delaware Information Analysis Center. This fusion center is the key component of information sharing of criminal intelligence and supports Statewide law enforcement investigations.

The success of DIAC is largely due to the information support it receives not only from State agencies but also from our federal

partners alike. In other words, you get out of it what you put into it.

I can think of no greater example of information and intelligence sharing for the State of Delaware than the Dover Downs International Speedway. Twice a year, Dover Downs hosts NASCAR events involving all three major racing series. On a normal day, the population of the city of Dover is believed to be about 40,000. On these two weekends, it rises to well over 300,000 people.

Following the tragedy of September 11, 2001, the NASCAR race at Dover Downs was the first major sporting event to be held in the Nation. The success of that weekend and all those following is because of the teamwork among a private business, federal, State and local law enforcement agencies.

The joint operations center, the JOC, is a hub of activity every race weekend, involving the collaboration of information being shared by the Dover Police Department, Delaware State Police, and the Federal Bureau of Investigation.

The FBI has become a significant partner in the information-sharing business. Currently, the FBI hosts a monthly information-sharing meeting, known as the policymakers briefing. This is held at Dover Air Force Base.

Senior law enforcement officials throughout the State and with the appropriate security clearance are invited to attend the briefing, where terrorism information is passed on to us at a local level. Additionally, the Dover Police Department and the FBI have entered into a training agreement where we provide the training location and they supply the instructors for a wide variety of law enforcement-related subjects.

The Bureau has also provided funding for technical upgrades to our existing facility to support these training efforts. To this date, one class involving search and seizure has been taught and others covering various law enforcement subjects are planned.

Select officers throughout the State of Delaware are given the opportunity to attend the FBI's National Academy. This intensive 10-week course provides executive law enforcement training, as well as a unique networking system, because each session hosts approximately 250 students throughout the Nation, as well as the world.

Because of the relationships formed during the session, the information is shared by classmates throughout the Nation and beyond far after graduation.

Currently, the Dover Police Department has two police officers assigned full-time to the Drug Enforcement Administration task force in Dover. This has been an ongoing relationship since the mid 1990s and it's one we value very much.

It is our belief that about 85 percent of our violent crime in Dover is tied to illegal drugs. The DEA brings to the table so much in the form of manpower and funding that helps us continue long-term investigations.

As chief of a 93-man department, I could never afford to fund a long-term investigation involving wiretaps and surveillance. But because of the resources that the DEA brings, both manpower and funding, I am able to conduct these types of investigations. The obvious result of any investigation is the arrest of those involved. But

what comes with that is the seizure of money, property, and vehicles once owned by those arrested.

As you well know, 80 percent of all assets seized during these investigations come back to local law enforcement agencies involved in the investigation.

This is significant and provides the Dover Police Department with additional funding to support equipment purchases and training initiatives, which ultimately come back to support the fight against the illegal drug trade.

One recent example: With the support of the DEA and the Delaware State Police, and the Dover Police Department, we are in the final stages of a major investigation involving illegal prescription medication. Thousands of pills have been brought into the Dover area by this identified group, which extends over 1,500 miles away.

Because of the long arm of the DEA, we have been able to arrest the dealers in my area, as well as the supplier several States away. The case is expected to result in the seizure of millions of dollars in money, property and vehicles, all of which will help support our ongoing efforts to combat illegal drugs.

The United States Marshals Service and their fugitive recovery team have been of great assistance to the Dover Police Department over the course of the last few months. On two separate occasions, the Marshals task force has responded to Dover and assisted in the recovery of two subjects wanted on several felony charges.

The first subject was a known felon and was, again, wanted on several charges relating to receiving, possessing and concealing stolen firearms. The second subject was wanted in connection with the ongoing rape of a 10-year-old female. On both occasions, it was believed that the subjects were staying in the area, but could not be located without the assistance of the Marshals task force and the specialized equipment they bring to the table.

It is not just these federal agencies described above who assist us. There are several other examples, such as the ATF supplying a sketch artist, which helped our criminal investigation unit with a long-term burglary investigation; the Secret Service conducting polygraph examinations; or ICE helping with counterfeit merchandise and trademark violations at Dover Downs.

With any program, there is always room for improvement, but the collaboration between federal, State and local law enforcement in Delaware has to be an example for others to follow. I believe the size of our State has a lot to do with that and allows for direct communications at events such as our policymakers briefing with the FBI and our Delaware Police Chiefs Council meetings.

The Dover Police Department is also grateful for the funding supplied through the COPS hiring program. As a result of this funding, Dover Police Department was able three 911 dispatchers in 1997, four law enforcement patrol officers in 2002, two school resource officers in 2004, and one additional patrol officer in 2009. All those hired under the COPS program are still employed and working full-time for the Dover Police Department.

Has this public funding led to measurable public safety improvements? Without a doubt. During each of the last five years, I have seen a significant increase in the number of complaints assigned to my officers and without the support received through the COPS

program, my department's ability to provide quality public service would have been diminished.

The addition of these officers has given the Dover Police Department the flexibility to reallocate manpower, to address specific problems in high-crime areas. It has allowed us the option of adding officers to the criminal investigation and the drug unit to support the growing trend of violent crime and gang activity in my city.

In closing, I leave you with this. The cooperation between federal, State and local law enforcement continues to have a positive effect on crime in our communities. The benefits are obvious to those in law enforcement and have helped them improve the quality of life for the residents of Dover.

It is vital that this cooperation between law enforcement agencies continue, and I urge your continued support through funding sources such as the COPS program.

Thank you.

[The prepared testimony of Mr. Hosfelt appears as a submission for the record.]

Senator COONS. Thank you, Chief Hosfelt.

Next, we will hear from James Burch. Jim Burch is Deputy Director of the Bureau of Justice Assistance in the Office of Justice Programs in the U.S. Department of Justice, where he has served for 17 years.

Mr. Burch is responsible for overseeing VJA's efforts designed to improve leadership in criminal justice policy and to provide services and resources to State, local and tribal law enforcement and criminal justice agencies to improve our National justice system.

VJA is the largest of OJP's components, responsible for a budget of approximately $1.5 billion, an average of 11,000 grant projects each year, and sponsoring roughly 2,000 annual training events reaching roughly 70,000 criminal justice professionals.

During his tenure at VJA, Mr. Burch has led efforts to enhance accountability and communications with the field, to integrate evidence-based practices into VJA programs and resources, and to position VJA to best assist local law enforcement in implementing crime reduction and prevention strategies.

Mr. Burch has a master of science in administration from Central Michigan University with a focus on administration and law enforcement and a B.A. in criminal justice from the University of Maryland-College Park.

Mr. Burch, thank you for joining us, and please proceed.

Chairman LEAHY. If I can just note, all statements will be placed in the record in full. So you may want to summarize the high points on it, but just so you know, the record will be in full.

Also, on the questions afterward, once you get the transcript back and you say, "What I should have added was," please do so, because this becomes actually part of the records of the U.S. Senate and will be used as we are going forward on legislation involving this.

So do not worry. If you think you leave something out here, you are going to get plenty of time to correct the record and add to it.

Thank you.

Senator COONS. Thank you, Mr. Chairman.

Mr. Burch.

STATEMENT OF JAMES BURCH, PRINCIPAL DEPUTY DIRECTOR, BUREAU OF JUSTICE ASSISTANCE, OFFICE OF JUSTICE PROGRAMS, WASHINGTON, DC

Mr. BURCH. Chairman Coons and Chairman Leahy, thank you for inviting me to be here today. I'm pleased to have this opportunity to discuss federal, State and local collaboration.

VJA's mission—my agency's mission—is to provide leadership and services and criminal justice policy development to support State and local law enforcement strategies to achieve safer communities.

The resources available are of critical importance to our partners, particularly in this challenging economic time. While National and most local crime rates remain at historically low levels, there are also cities, counties and States that are experiencing spikes in certain violent crime. Gang crime continues to impact many neighborhoods, and the continuing threat of terrorism posed by domestic and foreign extremists remains an enduring constant challenge for our homeland.

Additionally, as all levels of government are affected by the economic crisis, we are doing our part to ensure that taxpayer dollars are used in ways that are effective and efficient, identifying and seizing on cost savings whenever possible.

Effective collaboration and partnerships between federal agencies and local justice agencies in investing in innovation and evidence-based approaches are key to addressing emerging and continuing challenges, especially in this economic climate.

While VJA's mission is to support State and local agencies specifically, partnering with other federal agencies that have critical State and local resources is also essential.

I want to acknowledge the important collaboration emerging between my office, the Bureau of Justice Assistance, and the Department's Community-Oriented Policing Office, which also has critical resources available to State and local agencies, as you've heard here today so well.

Supporting partnerships with local law enforcement is a top priority of this Administration and of this Department of Justice. In particular, the Administration remains firmly committed to the Edward Byrne Memorial Justice Assistance Grants Program, or JAG program, administered through what I believe is a unique federal, State and local partnership approach that allows for leadership and accountability while also providing flexibility in local funding decisions.

The JAG program, which is administered nationally by VJA and state agencies such as the Delaware Criminal Justice Council, represented here today, is the leading source of federal justice funding that can be used in almost any area of the justice system.

The Administration has requested $519 million in funding for the JAG program in fiscal year 2012.

Since 2009, VJA has awarded over $2.9 billion in JAG funding across the Nation. This figure includes funding that was awarded through the American Recovery and Reinvestment Act. Of that, $16 million was awarded in fiscal year 2009 and fiscal year 2010

to the State of Delaware and to local eligible jurisdictions here within the State. These funds support both innovative crime-fighting approaches, as well as basic criminal justice operations.

We also recognize that in addition to funding, training and technical assistance is an effective use of public safety dollars. As budgets continue to be leaner and our grant funding becomes leaner and, therefore, more competitive, our training and technical assistance efforts will provide even more vital support to our partners.

We provide training and facilitate expert assistance on any criminal justice issue of concern to any local jurisdiction, and that goes to any justice organization, not just to those entities that receive our funding, but any justice entity can receive these services.

For example, we recently provided training to approximately 200 law enforcement and corrections personnel in Dover on identifying the characteristics of an armed gunman, and that was in follow up to training we did in 2007 on similar topics.

Our training efforts are the underpinning of many of our new and innovative programs, including our officer safety initiative. Tragically, we have all seen and heard the stories about the increased number of law enforcement officers killed in the line of duty. In 2010, the statistics saw an increase of 40 percent over 2009 line-of-duty deaths.

Since January of 2011, in that short period of time, more than 84 law enforcement officers have been killed in the line of duty. Our VALOR initiative, which is part of our officer safety program, is designed to help prevent line-of-duty deaths and ambush-style attacks on law enforcement officers through a comprehensive array of training and technical assistance.

Another key component for us is the Regional Information-Sharing Systems program, or RISS, which provides secure information sharing and other resources for local law enforcement. The RISS program is helping us to address officer safety by launching a secure officer safety Web site, a deconfliction system, an event deconfliction system, to prevent inadvertent officer-on-officer incidents, particularly in undercover scenarios, and through other resources.

VJA will continue to work with our law enforcement partners to support the critical risk program. Strong information sharing is also an important component of this response, as are partnerships such as the ones discussed in my written testimony, between the FBI, the Department of Homeland Security, and through the leadership of the United States Attorneys.

Investing in evidence-based programs is also a priority for the President and for the Attorney General. We have been working diligently in the Bureau of Justice Assistance and the Department of Justice to build a base of knowledge, to translate that knowledge into practice, and to otherwise promote scientific integrity in the criminal justice work that we do.

Programs such as our smart policing initiative builds on the concepts of intelligence-led policing, offender-based and place-based policing by replicating evidence-based strategies and encouraging new, unique solutions to public safety problems.

Our justice reinvestment initiative is also an example of a data-driven approach to help control spending on corrections and rein-

vest savings into more cost-effective strategies. Justice reinvestment has shown significant results in communities throughout the country, including in Vermont, and I am pleased to report that Delaware is now well engaged in this initiative, thanks to an impressive group of leaders here in the state working through the Criminal Justice Council.

Chairman Coons and Chairman Leahy, I would like to thank you again for the opportunity to participate today. So much of the responsibility for crime control falls on the local communities, and we are committed to assisting them through timely resources and through partnerships.

Delaware has been a place of great opportunity and will continue to be thanks to the collective leadership represented here today.

This concludes my oral statement. I am pleased to answer any questions.

[The prepared testimony of Mr. Burch appears as a submission for the record.]

Senator COONS. Thank you, Mr. Burch.

Chairman Leahy is going to have to leave us in about 10 minutes to catch a train back to Washington. I am hoping he will get to ask a first round of questions before we do so.

It is my great pleasure, finally, to introduce Ms. Drew Fennell, the Executive Director of the Criminal Justice Council of Delaware, just referred to by Mr. Burch.

Prior to assuming that position, she was executive director of the ACLU of Delaware. She began her legal career as an employment attorney with Young, Conaway, Stargatt & Taylor; received an undergraduate degree in English from University of Delaware; and received her law degree with honors from Rutgers School of Law in Camden, where she served on the law journal.

Following graduation, she clerked for Judge Balick of the Delaware Court of Chancery, and is admitted to the Delaware Bar.

Ms. Fennell is active in the community and serves on a number of boards and was appointed by Governor Jack Markell to the Judicial Nominating Commission and served until her appointment as executive director of the CJC.

She received in 2008 the New Lawyers Distinguished Service Award from the Delaware State Bar and the 2010 Mary Philbrook Public Interest Award from Rutgers School of Law in Camden.

Ms. Fennell, please proceed.

STATEMENT OF DREWRY FENNELL, EXECUTIVE DIRECTOR, DELAWARE CRIMINAL JUSTICE COUNCIL, WILMINGTON, DE

Ms. FENNELL. Thank you. Chairman Leahy, Senator Coons, and distinguished guests, I am Drew Fennell, Executive Director of the Criminal Justice Council, and I'd like to thank you for this opportunity to tell you how federal criminal justice spending improves public safety on the ground in our State. And I'd also like to share with you a little bit about the exciting work we're engaged in as part of the Bureau of Justice Assistance justice reinvestment initiative.

The Delaware CJC, Criminal Justice Council, was first formed in 1968 and acts as the State administering agency for all the funding through the Office of Justice Programs. The Council was created by

statute and is comprised of 27 criminal justice professionals, including six cabinet secretaries, the presiding judges of all our State courts, the Delaware attorney general, U.S. attorney general, chiefs of the major State, local and county law enforcement agencies, as well as three community representatives. And our current chair is our Lieutenant Governor, Matt Denn.

Here in Delaware, our communities are safer because of the funding we receive through the Office of Justice Programs. In partnership with the Federal Government, we're able to ensure that Delaware's criminal justice system is fair, efficient, and accountable.

The federal funding we distribute has a real effect in our communities. Later today, the Council will vote to award over $4 million in federal funding to State and local law enforcement, courts, corrections, victims services, and community providers united in a common effort to ensure public safety.

We have really worked hard to create a strategic planning effort to coordinate resources and prioritize funding for efforts to serve populations such as the mentally ill in our justice system.

Earlier this year, the Council funded a mental health crisis intervention training for law enforcement and as part of the same effort, federal funds support Delaware's mental health court.

In addition, Delaware provides intensive supporting services through our mental health courts, which reduces the number of days offenders with mental illness spend in our prisons and psychiatric hospitals.

Together, these efforts reduce recidivism, save money, and improve public safety.

Building on our foundation of interagency cooperation and strong strategic planning, the Criminal Justice Council recently embarked on the first steps of the justice reinvestment initiative, funded and supported by the VJA.

The justice reinvestment initiative is a data-driven process designed to allocate and manage criminal justice resources in the most cost-effective way to improve public safety. This initiative has required enormous commitment from our Governor, our courts, legislative leaders, and criminal justice authorities. And to succeed, we must continue to improve our information-sharing capability, collect and analyze criminal justice data, and develop policies and strategies based on that data so that we can implement evidence-based policies to increase public safety.

The data analysis and information sharing required by the justice reinvestment initiative will augment our already robust law enforcement capacity in this area. Our goal is to provide information and analysis that will guide decision making at all stages of our criminal justice system.

A strong information-sharing network will allow prevention, reentry, juvenile justice, corrections, and the courts to respond effectively to the realities of crime in Delaware and be certain that their efforts are effective in reducing crime.

VJA brings more than just funding to Delaware. They also bring enormous technical expertise and knowledge of best practices. For us, as for many States, the move toward evidence-based programs is demanding. But with the commitment of our State's leaders and

support from our federal partners and funding from your Senate, we are making excellent progress.

We are in the beginning stages of important work, and I look forward to briefing you in the future about the fruits of our efforts.

Thank you for your time.

[The prepared testimony of Ms. Fennell appears as a submission for the record.]

Senator COONS. Thank you very much, Ms. Fennell. Thank you to the entire panel for your testimony.

As I mentioned, Chairman Leahy needs to depart soon for a train to Washington, and I would like him to ask the first question we ask of this panel today.

Chairman Leahy.

Chairman LEAHY. Thank you very much. Again, I want to thank Chris Coons for doing this. Incidentally, when you hear him talk about his concerns for law enforcement, he does not say it just here. We hear it a lot in Washington, too. You have a strong advocate there.

In a way, I wish this hearing could be replicated in 49 other States with what we have heard. And I am just going to ask a couple questions.

I was struck by something, Colonel, that you said, and it was also echoed by the chief. You started out basically as patrolman—not patrolman, just an officer. And we sometimes joked in our State Police that if one of the young officers screwed up, they had to walk a beat on the interstate. I never actually saw that.

But what you said about proprietary information, things being shared based on friendship and all, I recall those days and I recall that concern, and, Chief, you said something similar.

Now, we have 18,000 separate police departments in this country. They range from very small departments—the small sheriff's department, a small local department—up to the State police.

There is no one-size-fits-all. But I like to think we have moved from the days where if you know something, you might tell them; otherwise, you do not.

In an era today, none of us can survive that way. So I was pleased by what you said. Do you feel that this has been a remarkable change or a good change, an evolving change during your time in law enforcement?

Colonel COUPE. Yes, sir. I would—the last way you phrased that, evolving change. We're not there yet. There is still room for improvement. But the communication is much better.

An area that we are still growing in is the automated intelligence system. In our State, it's software that's referred to as Pemex. And that's for storing criminal intelligence, and right now, that's something that we're still marketing within the State to get the trust from our local partners, that it is okay to put information into there and that you still maintain some control of your case, but at the same time, you're sharing information.

And they do that through a pointer system, where if you entered information about a particular suspect that you were looking at and I were to go in and either get ready to enter information on the same suspect or ask about that suspect, instead of giving me

all the details of your case, it would put you and I together. It would point me in your direction.

And that's a positive movement for law enforcement, because there are times where many of our investigations are sensitive. So you can't put everything out there. But it is important that there is enough out there that we get together and work together.

Chairman LEAHY. Chief, what about you? How do you feel?

Mr. HOSFELT. Well, I agree. Again, the information sharing starts at a local level with the State, and then our federal partners come in. But to me, 9/11 2001 was the critical stage. That's when we realized we had to do a better job of information sharing, and it's not just with terrorism activity, but it was just criminal information sharing as a whole.

Chairman LEAHY. And you referred to the fusion center, which you talked about before. Is that something where the Federal Government can help, can bring the various pieces together by pieces of all the different law enforcement and those involved?

Mr. HOSFELT. Yes. This is a program that's run by the State. It's managed by the State. We share in that information gathering and inputting the information into it, and, again, that information is shared by our federal and our regional partners, as well. They bring information back to us; we bring information to them at the fusion center, as it is.

Chairman LEAHY. You probably saw me making some notes here earlier. I am thinking of some things that I am going to be talking about back home in Vermont.

Ms. Fennell, we would love to have somebody in Vermont announce the amount of money you are going to announce later today. I saw some ears perk up in the audience.

And I liked what Mr. Burch, who has testified before our Committee before, talked about, the various programs and the sharing. And I think you have seen a major move forward in that, and I should compliment Senators who have been there before. Former Senator Biden was the one who pushed for that. It is something that we have tried very, very hard in the Judiciary Committee to authorize and then the Appropriations Committee to fund.

So I am glad to see it. I am glad to see it coming together. I think there is nothing worse or nothing could be worse than somebody in law enforcement to say we missed this person because they knew about it, but the person was in our jurisdiction and we did not know about it.

I understand the fact that you have got some things—if you are using investigators, you are using informants or something like that, you have to keep these things protected.

But I am going to leave and I am actually going to read the transcript, but I was reading your testimony, Chief, and, Colonel, Mr. Burch, Agent McFeely, and Ms. Fennell, last night and it gives me—when I compare this to what I was hearing a couple decades ago in the Judiciary Committee, you are light years ahead of where we were in law enforcement then.

We have always good, honest, hardworking people in law enforcement, but now we have a criminal element and an element of terrorism that moves way beyond anything that most of us saw in our earlier careers in law enforcement.

So I applaud you all for doing this. And, Chris, thank you for doing this.

Senator COONS. Thank you, Mr. Chairman.

Chairman LEAHY. Thank you. And I will leave.

Senator COONS. Folks, can we have a round of applause for the Chairman for joining us today?

[Applause.]

Senator COONS. The Chairman was sharing with me earlier that he wanted me to continue with questions. We discussed before the hearing a number of issues that he and I both share strong interest in, and we will probably do about another half an hour's worth of question-and-answer with the panel, if I might, and he will be reviewing the full transcript.

As he mentioned before, if there are things in either your written testimony or in follow-up that you would like to expand on, the record will stay open for a number of days so that we can end up having a full record that will be shared with all the Members of the Committee.

It is a strong Committee that is very actively engaged in oversight and support of all the federal programs that relate to law enforcement, as well as intellectual property. I have some questions about both of those, if I might.

I would just follow up on the line the Chairman was following there to Special Agent McFeely. The Department of Justice, as I understood it from your testimony, is working on a next generation data base to link crime reports, N–DEx. And can you speak about what that system will mean, how Delaware is helping in its creation?

Chief, I understand that Delaware is unique in that all law enforcement agencies in the State are utilizing the same crime reporting system. I would be interested in hearing how that has helped with information sharing.

If you would, Agent McFeely.

Mr. MCFEELY. Delaware is unique in the fact that they are moving to one. There is basically one database that they use to collect the information.

Compare that to Maryland. There are 134 different police agencies there, and there are 134 different databases. What you need in a situation like that, which pretty much mirrors the rest of the Nation, is some solution that is pushed out there that (a) is available to police agencies and (b) is free of charge.

This N–DEx that is being pushed out is both of those things. It provides anybody with an Internet connection, which is most police agencies now throughout the country, the ability to do exactly what we are talking about here and exchanging real-time case information.

And there have been numerous initiatives over the years that have been put forth. The beauty of N–DEx is that it is managed by the Criminal Justice Information Services Division of the FBI, which also maintains NCIC and III, as well as all the fingerprints and the biometric data that the world collects.

So it is in good hands out there and it provides its robust work and already has that linkage through NCIC with every police agency in the Nation.

Senator COONS. Thank you.

Chief Hosfelt and Colonel Coupe, if you would talk about our progress to date in rolling out N–DEx and what you see as the major challenges to getting all the agencies in the State to fully participate, and what will the benefits be once we get there.

Colonel COUPE. As has been alluded to already by the chief and by SAC McFeely, we are unique in Delaware in that we use one crime reporting system. That is an automated crime report. All that information is stored at DELJIS.

So in late 2009, early 2010, Delaware was able to agree and go online with N–DEx and provide that information to the FBI for inclusion in their database and access throughout the country.

So that part is already taken care of for Delaware, and because we only had one crime report and one central area of storage, we are already 100 percent participating in that.

Training for Delaware in that program just began in April 2011. Right now, that has been limited to a small pocket of investigators from different agencies and also from the DSP, but that training will be expanded on to utilize the system.

As far as feedback from the use of the system, I don't have that today, but I'm told that it has worked. It is providing what was requested. The challenge now is to get other agencies outside of the State of Delaware to participate.

As SAC McFeely said, some states are not as fortunate as us. So they may have so many different operating systems. It is going to take a while until they are all online.

Senator COONS. So what are the challenges to getting all of the law enforcement entities within the State of Delaware to participate?

Colonel COUPE. Right now, because of DELJIS commitment, all of their reports are already there.

Senator COONS. Automatically.

Colonel COUPE. Now, the part for us is getting everyone trained in Delaware to have access to it, which will be—it will be helpful for an investigation.

As was already stated, through NCIC, things like that, we can track someone's criminal history in another State, but we didn't have access to the crime report.

But now if you do someone's criminal history, you see a particular crime that you're interested in, you could actually research and look at the actual investigative report information there that may help you in your investigation and point you to a particular investigator in another State or a particular agency.

Senator COONS. And to what extent do City of Wilmington, New Castle County, DSP investigators that are dealing with crime, particularly drug crime that may be regional in its origin or gang-related crime, are they hampered by the lack of that interconnectivity in the region outside the State of Delaware?

Colonel COUPE. There are challenges there, and I'll let the chief speak on that, as well, because he has experience directly as a drug investigator. But, yes. Right now, the conduit oftentimes is the DEA, that we use them, go through them, sharing information, or it's because someone has a contact in another State with another agency and you reach out.

But as far as accessing data bases, that is still a challenge. And as Mr. Burch mentioned about RISS and deconfliction, there is an effort there to go with a broader deconfliction. Right now, we use a system within our State, but this would help us broaden that circle within our State and outside of our State and the region, and we are working with them on that to figure out how to build that infrastructure.

Senator COONS. That is great.

Chief Hosfelt, did you want to add something?

Mr. HOSFELT. The relationship with the DEA is important simply because it brings everyone together, whether it's my investigators in Dover working with local law enforcement in New Jersey because of their connections with the Drug Enforcement Administration task force.

It is not uncommon for us to work cases together. Again, I spoke earlier of us working the case several States away, 1,500 miles away, and we are able to do that because of our connection with the DEA.

In Dover, speaking back to—criminals just don't stay in Dover. He may commit a crime in Dover, but he is also going to commit that crime in New Castle County or in Sussex County. And it may not be—it may be as simple as an investigator reading about the arrest of someone in Dover, some crime that we have handled or investigated.

He reads that, he looks into that person because of the intelligence and because of the information sharing that we have with our reports, the LEISS system and the DELJIS system, he can research that person, look at that warrant, find out that he is operating the same way in Dover as he has in Sussex County, and, again, they can build their case from there and that information is immediately available to them once it is put into the system by the officer investigating.

Senator COONS. Thank you.

Mr. Burch, I was interested in hearing more about what VJA has done to incorporate evidence into its programs. We have heard that evidence-based policing has been a major change across the country.

Can you talk a little bit more about DOJ's evidence integration initiative and how that seeks to facilitate more effective partnerships between federal and State grantees?

Mr. BURCH. Yes, sir. I would be glad to do that. And on the latter point, some of our funding that we have provided for information sharing we have also encouraged agencies to use to connect to N–DEx nationally. And so we have provided some funding along those lines, as well.

In terms of integrating evidence into our programs—and for those in the audience today, just to clarify here, what we are talking about is learning lessons from other places, other communities that have implemented similar strategies, determining what is most effective at reducing and preventing crime, and then showing others how to replicate those strategies across the country.

And so the smart policing initiative is one place where we have done just that. And so, for example, fairly close to where we are today, in Philadelphia, we funded the Philadelphia Police Depart-

ment to go in and do an experiment with foot patrols, foot patrols in high-crime areas or hot spots that the city of Philadelphia is dealing with.

We want to evaluate that approach. We know that it can be effective. We want to know why it is effective. We want to know how much of it relates to actual positive outcomes.

We are doing similar work in other places. In Glendale, Arizona, for example, we are experimenting with problem-oriented policing approaches to deal with burglaries. A number of communities today are seeing increases in burglaries in their communities sand so we want to develop strategies and tools that we can give to other departments that they can replicate, as well.

But this is—evidence integration is not something we have just limited to our work in law enforcement. We are doing the same with drug courts, for example. Drug courts are very successful in helping folks avoid incarceration and receive the drug treatment that they need.

We have learned from a recent evaluation about those drug courts about exactly what it is that makes them effective. So we are now retooling our drug court funding to be even more focused on those very specific strategies that can make a difference, and we are doing this in areas of prisoner reentry, as well, for those that deserve a second chance to make sure that we know what can be effective with them and how we support them.

Senator COONS. Thank you.

I would be interested, Ms. Fennell, if I might, in hearing from both you and Mr. Burch about the justice reinvestment program. What opportunities do you see for Delaware in implementing that, what you think that might bring to our community as you try to do your best with limited federal resources?

As someone who has the fortune or misfortune of serving on the Budget Committee, as well as the Judiciary Committee, I see the increasing challenges our federal budget faces. I am pleased to hear Mr. Burch and Special Agent McFeely talk about how our federal partners are doing their best to leverage resources, to make them go farther. They are trying to learn from experiences around the country.

But, Ms. Fennell, if you would just speak about both—there is a mental health court you referenced and the new RPI that you referenced. I would be interested in how you think those will be successful in making our communities safer.

Ms. FENNELL. Well, let me—I will start quickly with the mental health court, because that is something we are well underway with. Our Council engaged in a strategic planning process, and one of the identified areas of priority was mental illness in the criminal justice system.

It poses a great threat to people in the community and law enforcement when there are encounters between people in crisis and law enforcement. We have done a lot of training with law enforcement, three days with law enforcement, corrections officers, and core personnel on how to help people with serious mental illness and keep them and the people who are around them safe.

And then to follow that up, with mental health court and the kind of supports they are able to provide, with having an intense

relationship with a particular judge and group of case managers to make sure those folks get what they need to stay safe and to stay out of jail and to stay out of trouble.

It is a very tough problem, but one I think our agencies really worked very hard to coordinate efforts across the justice system.

Justice reinvestment is a new initiative. We have just really started our work with the Institute of Justice through the Bureau of Justice Assistance.

One of the things that it responds to, I think, most beautifully is what you just described, limitation of resources. There is a really focused effort to try to identify those functions that work really well and expend our resources on what we know works, both to reduce spending, to reduce our corrections population and the spending we spend on that—money we spend on that, but, also, to ensure that we have timely law enforcement data available to everyone so that we never endanger public safety.

Whenever you're trying to put change into a system, there is always a concern that whatever changes you do will have some unintended consequences. And one of the things about Delaware that I think is really great is the fact that we have this unified reporting system.

We have great access to our data and we can—in ways that some other jurisdictions can't—really provide timely feedback on how well we're doing.

Are we spending less money? Are we increasing public safety? Are we making our communities both safer and stronger by making sure that we are providing the kind of prevention resources, reentry resources, and law enforcement resources for them to integrate into a good program that makes them safe and strong and secure?

Senator COONS. Thank you.

Colonel Coupe and Chief Hosfelt, one of the things Chairman Leahy referenced was over his decades on the Judiciary Committee and, before that, his service as a local prosecutor—he is well aware of the long tradition, the culture of sort of hanging onto the information rather than sharing. And I am impressed with the progress we have made in Delaware with the DIAC, grateful for the leadership role Special Agent McFeely has taken in offering the sort of monthly policymakers briefings and extending clearances and coordinating both the national security and anti-crime focus.

What else do we need to be doing in Delaware to continue to make progress toward a culture of collaboration, integration and information sharing, and what else is there that we federally could be doing to help bring resources to that task?

Mr. HOSFELT. I think as far as federal help, the perfect example, nothing more, is our Delaware policymakers briefing that we have. It is great information. It is shared at a local level. And you, obviously, have to have the proper security clearance to hear the information and I think that is important.

And it may also be as simple as—and I will use this—the local office of the FBI has two agents assigned to it. Both those agents are what I will call, for lack of a better term, Dover kids. They grew up in the area. They went to school there. They worked as

Delaware State Troopers before going on board with the FBI in the Dover area.

So, again, most of us, we grew up together in law enforcement. So we have that common bond and communication flows freely. We are not protecting it. We understand the big picture. Again, we have been working together for so many years, I think that is a great help to us in the Dover area.

Obviously, I can't speak to other jurisdictions, but I know in my immediate area, that is of great help to us and just the communication is key.

As far as local law enforcement, I think more trusting and I think we are learning to do that as far as the information sharing. And, again, I said it earlier, that you get out of it what you put into it, and I agree with that. I think that is a good statement. It is important for us to get the information out there so that we can all work together toward the common goal.

I mean, we say that a lot, but it needs to be done, and I think we are doing a much better job of that here lately.

Senator COONS. I know that both Colonel Coupe and Chief McGowan and their respective predecessors worked very hard to improve the partnership and the collaboration between county and state police.

Anything else that we could be doing to try and encourage that all up and down the chain, city, county, State, and then partnerships with our federal friends?

Colonel COUPE. I think the important thing is the financial support that the Federal Government brings. Many of the programs that we have success with were established through grant funding directly from the Federal Government, through one of the programs.

For example, the fusion center itself was stood up with grant funding. Certain positions are still supported, and the State has to take on much of that burden.

So the sustainment of the fusion center is such an integral piece in this intelligence network that it is important for that support.

Another example that is not quite as visible, but, again, it was created with grant funding, and that is our forensic firearms unit, which is a partnernship with the ATF, utilizing NIBIN, the National Integrated Ballistics Imaging Network, but that was——

Senator COONS. You cannot have a good law enforcement hearing without some new acronyms.

Colonel COUPE. Some acronyms.

[Laughter.]

Colonel COUPE. But it was—the expert that was brought on board was initially funded through a grant. He is now a full-time employee with the State of Delaware, Delaware State Police, and that program has many success stories where we are talking about sharing intelligence, examining evidence from a crime scene, inputting it into the national database, and developing a lead based on the sharing of information, sometimes within our own State, sometimes outside of the State.

And, currently, because of the workload that that unit has taken on, we have acquired grant funding to hire a contact employee part-time to support our expert. But that wouldn't be possible with-

out the grant funding that we are getting from the Federal Government and the assistance with our own Criminal Justice Council here in Delaware.

Senator COONS. I have two more topics I will touch on briefly. Then we will come to a close.

Intellectual property protection is something that is of great importance to Chairman Leahy and to me. Your written testimony, Special Agent McFeely, spoke to that, the significant work that the FBI is doing in intellectual property protection and some of the work that has been done.

And, Chief Hosfelt, some of your testimony also related to Dover Downs. There is actually some counterfeit enforcement that needs to be done.

And, Mr. Burch, it is also something VJA has helped local law enforcement strengthen their capacity to do. So I did not know if any of the three of you wanted to comment on what you see as the biggest challenges and opportunities in partnering together to make sure that we protect American intellectual property, which, in some ways, is one of our greatest sources of exports and of new job creation, something a lot of Delaware companies take very seriously, and a number of you have been directly involved in important enforcement actions.

Mr. McFeely, do you want to comment on that?

Mr. MCFEELY. I think one of the biggest challenges right now is understanding how the cyber threat relates to the loss of intellectual property, basically the exfiltration of data that companies are investing billions of dollars of R&D, research and development, into in this country.

It used to be, in the old days, if somebody coming to take that information involved an insider and whether it was for their own proprietary benefit, so they are going to sell it and make a profit, or whether it is a hostile country coming in here to circumvent our trademark or copyright or intellectual property laws, those days are waning; there has been a fundamental shift right now. That data can now be easily hacked into from places outside the State, outside the city, outside the country.

And I think one of the focuses that really we are looking at from the Bureau's standpoint is what is the threat right now, how has that shift really taken place, are our resources aligned properly to the cyber threat in relation to the traditional threat to intellectual property laws.

Senator COONS. Mr. Burch, as you know, budgets are likely to continue to be tight. You face the unique challenge of having to deliver sort of the support and the training and the resources.

What more do you think we could be doing to help local law enforcement with these IP enforcement challenges when we have so much on their plate in terms of just fighting drugs, gangs and crime and terrorist threats, National security threats?

Mr. BURCH. I think that the resource question is a big part of the challenge here, is how do you ask an agency to take on a new task force or an expanded task force mission when the budget is already not sufficient to support the core mission.

I think that, in part, is, as I mentioned, a resource issue, but it is also an education issue. There are many agencies, such as we

have heard from today, that see it at places like Dover, understand why it is an issue. And I think there is also a lot of us around the country that don't necessarily understand how intellectual property crimes are linked to economic security, national security, and the safety and health of the American public.

And so this is a top priority of the Administration—to address intellectual property crimes, particularly those that we see at the street level. I think one of the things that we are trying to do through our risk program and through some of our funding for intellectual property enforcement is to educate all of the criminal justice system about how these IP crimes are linked to other kinds of criminal activity, in particular, drugs and gangs and organized crime.

And so that is a mission that we are doing our best to take on through the resources of the Pro IP Act, but also through our discretionary funding. And so we will continue to work at that.

Senator COONS. As Mr. Burch knows, I am someone who has both joined the Pro IP Act and spoken in support of sustaining RISS. I agree. We have seen a great deal in the Committee that internationally both organized crime and terrorist groups are engaging in an unprecedented level of counterfeiting pharmaceuticals, aircraft parts, other industrial activity, as well as cyber crime, that poses a real threat to our Nation and is often underappreciated, and I look forward to working together on that enforcement trajectory.

If I might, Mr. McFeely, just the last two questions. The FBI does not currently have a full-time analyst, if I understand correctly, at the DIAC and I did not know if you thought there might be some benefits to the addition of a full-time FBI analyst there.

And I am concerned in what we have heard in both written and spoken testimony today about the prevalence of both gun and gang activity in Delaware, in Dover and Wilmington and elsewhere throughout our State that seems to be coming to our State from outside, in our region.

And I wondered if you thought Delaware might benefit from participation in the high-intensity drug trafficking area or HIDTA program and whether you thought any elements of our community might be successful candidates or potential applicants for that program.

Mr. MCFEELY. So, certainly, my goal is to get an analyst in DIAC. We have done the next best thing from that and basically put our FBI systems down there and given access to the analysts that are assigned there. But that still is not a complete replacement for putting an FBI analyst there.

In the event that there are additional analytical positions appropriated to us next year, it will certainly be one of the things that will be in my annual request for resources.

We have been working that very extensively with our FBI headquarters and the FBI is—actually, the special agents in charge next week are coming together with the director to talk about a fusion center engagement policy down in Quantico. That is one of the main topics we will be discussing, understanding that in order to really leverage—because I can't agree with Chief Hosfelt more that if you build it, they will come, you get out what you put into it.

We have got to have a full-time presence there. So high priority for me. I am relatively confident that it will happen in the short term.

Senator COONS. Thank you.

Mr. MCFEELY. In terms of the HIDTA designation, I think HIDTA is one of the best tools that there is to bring State, local and federal resources together. It has been very effective. I am not sure how many HIDTAs there are right now, but believe there are well over 20 throughout the Nation.

I am very active in the Baltimore-Washington HIDTA. I have seen the success stories day in and day out, including my own HIDTA initiatives run by some of my supervisors. We are really making a dent in both the violent crime and the drug trafficking aspects that go with the drug trafficking.

So I am a firm supporter. We are going to work very closely to see whether or not the threat warrants a HIDTA—and if there is a possibility to get designated. It would be my recommendation we look at New Castle County—it is a county-designated program—and make a business case to see whether or not we could be picked up by a HIDTA.

Senator COONS. Thank you. I am confident that folks both in New Castle County, Wilmington, the State would be interested in partnering with you, both US–301 and I–95 provide great economic development resources for our State, but also lots of less legal economic activity to our State.

One of our challenges has been integrating with our region in terms of information sharing and law enforcement, but also providing appropriate federal resources to help local law enforcement deal with the significant increase in gun and drug and gang activity that that brings.

As you could all tell, I could ask many more questions. I have got another 20 questions prepared for this panel. We will stay in communication afterwards, as the Chairman mentioned. We will keep the record open for a number of days in the event you have got additional testimony you would like to provide to us as we complete the record of this field hearing.

And more than anything, I just want to thank you so much for taking time out of your very busy days. Ms. Fennell, Special Agent in Charge McFeely, Mr. Burch, Colonel Coupe, and Chief Hosfelt, thank you very much for your testimony today.

This hearing of the Judiciary Committee is adjourned.

[Whereupon, at 12:37 p.m., the Committee was adjourned.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

Witness List

Hearing before the
Senate Committee on the Judiciary

on

"Building Safer Communities: the Importance of Effective Federal-Local Collaboration in Law Enforcement"

Monday, June 20, 2011
Carvel State Office Building, 820 N. French Street, Wilmington, DE 19801
Second Floor Auditorium
11:00 a.m.

James Burch
Principal Deputy Director
Bureau of Justice Assistance
Office of Justice Programs
Washington, DC

Richard McFeely
Special Agent in Charge
Federal Bureau of Investigation, Baltimore Division
Baltimore, MD

Colonel Robert Coupe
Superintendent
Delaware State Police
Dover, DE

Chief James Hosfelt
Dover Police Department
Dover, DE

Drewry Fennell
Executive Director
Delaware Criminal Justice Council
Wilmington, DE

PREPARED STATEMENT OF CHAIRMAN PATRICK LEAHY

Statement Of Senator Patrick Leahy (D-Vt.),
Chairman, Senate Judiciary Committee
Hearing On "Building Safer Communities: The Importance Of Effective Federal-Local Collaboration In Law Enforcement"
June 20, 2011

I thank Senator Coons for holding this important hearing in Delaware today, and for his strong commitment to supporting state and local law enforcement. Today, we will hear about the critical ways that Federal and state law enforcement work together to keep our streets safe. Supporting collaboration between Federal, state and local law enforcement has long been crucial, and it remains so even in these hard economic times. This collaboration includes both information sharing and making sure that key Federal resources continue flowing to law enforcement. I look forward to hearing about both of these issues this morning.

Interagency coordination and information sharing is more important than ever. When the so-called Christmas day bomber attempted to detonate an explosive on a flight in 2009, intelligence agencies knew his identity, but his name was not on a watchlist that would have prevented him from boarding the plane. I agree with President Obama that this was a "systemic failure," and I am glad that the administration acted promptly to identify and fill gaps in our information sharing systems.

We must continue to ensure that we are able to effectively piece together the information our government agencies – Federal, state and local – collect on terrorist and criminal threats. The Fusion Centers, which we will hear about today, were designed to promote information sharing between Federal agencies such as the Federal Bureau of Investigation and state and local agencies, and they are an important part of responding to threats as efficiently and effectively as possible.

Continuing Federal support for state and local law enforcement is no less important. This Congress has focused on how best to continue the economic recovery. An effective way to both protect our citizens and create jobs is to bolster Federal resources for state and local law enforcement. When neighborhoods become safer, property values rise, businesses open, and local economies prosper.

Like Vermont, Delaware is a small State where neighboring jurisdictions are close by and cooperation and interoperability are especially critical among state and Federal partners. My attention to information sharing and law enforcement safety was shaped significantly by the Carl Drega incident in Vermont and New Hampshire in August of 1997, during which four people were killed, including two New Hampshire State Police officers, and three other law enforcement officers were wounded. I expect many in law enforcement are familiar with this incident.

During that terrible tragedy, I saw how information sharing deficiencies and the lack of bulletproof vests made the jobs of those incredibly brave law enforcement officers so much more difficult. The Senate acted quickly as the result of that incident, and one of things Senator Judd Gregg and I did was to provide funding to state and local law enforcement to create communications interoperability.

As a Senator, I have never lost sight of how important it is to provide state and local law enforcement officials with the support they need, and to support the partnership between state and Federal law enforcement entities. It is truly one of the best investments we can make in Congress.

Crime dramatically affects communities across the country, from bigger cities like Wilmington, to smaller towns like those across Vermont and Delaware. In this environment, the Federal Government must do everything we can to assist states and communities. This morning, we have a distinguished panel of witnesses representing Federal, state, and local law enforcement. Each of you brings a unique perspective to law enforcement collaboration, and I look forward to your testimony.

# # # #

PREPARED STATEMENT OF RICHARD A. MCFEELY, SPECIAL AGENT IN CHARGE, FEDERAL BUREAU OF INVESTIGATION, BALTIMORE DIVISION, BALTIMORE, MARYLAND

Department of Justice

STATEMENT

OF

RICHARD A. MCFEELY
SPECIAL AGENT IN CHARGE
BALTIMORE FIELD OFFICE
FEDERAL BUREAU OF INVESTIGATION

BEFORE THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

AT A HEARING ENTITLED

"BUILDING SAFER COMMUNITIES: THE IMPORTANCE OF EFFECTIVE FEDERAL-LOCAL COLLABORATION IN LAW ENFORCEMENT"

PRESENTED

JUNE 20, 2011

Statement of Richard A. McFeely
Special Agent in Charge
Baltimore Field Office
Federal Bureau of Investigation

Committee on the Judiciary
United States Senate

"Building Safer Communities: The Importance of Effective Federal-Local Collaboration in Law Enforcement"
June 20, 2011

Good morning, Chairman Leahy and Senator Coons. Thank you for the opportunity to appear before you today to discuss the FBI's coordination with federal, state, and local law enforcement here in Wilmington and across the country.

Since September 11, 2001, the FBI has shifted from a traditional crime-fighting agency into an intelligence-led, threat-driven organization, guided by clear operational strategies. Today's FBI is focused on predicting and preventing the threats we face while at the same time engaging with the communities we serve. This shift has led to a greater reliance on technology, collaboration, and information sharing.

The Baltimore Field Office of the FBI has jurisdictional responsibility for the State of Delaware where we maintain two Resident Agency (RA) offices. These RAs are responsible for all of the FBI's information sharing and investigative work in Delaware. In addition to task force participation, a number of special agents in Delaware serve in an official liaison role and coordinate with federal, state, and municipal law enforcement agencies. Some of these agents are regularly embedded with the partner agencies, where they facilitate the efficient and frequent exchange of information and work to better understand the intelligence needs of FBI partners.

There was a day in law enforcement when teamwork and partnership were virtues. Today, they are absolute necessities. Also of great necessity is the ability to share real-time information that allows both the FBI and its partners the world over to cross jurisdictional boundaries and quickly 'connect the dots' when every minute counts. Gone are the days when information was held onto for fears of compromising investigations; the benefits of full and open sharing with our partners has proven time and time again to be more valuable than the close holding of intelligence.

Information Sharing

The FBI has two strategies we rely on to push information out to our partners: one is a formalized structure and the other is informal and tailored to each individual jurisdiction.

From a formalized perspective, the FBI's National Information Sharing Strategy (NISS) ensures that information is shared as fully and appropriately as possible with federal, state, local, and tribal partners in the intelligence and law enforcement communities. The NISS is based on the principle that FBI information and information technology systems must be designed to ensure that those protecting the public have the information they need to take action.

The NISS includes three components: Law Enforcement National Data Exchange (N-DEx); OneDOJ; and the Law Enforcement Online (LEO) network.

For its part, N-DEx provides a nationwide capability to exchange data derived from incident and event reports. It serves as an electronic catalog of structured criminal justice information—such as police reports—that provides a "single point of discovery;" leverages technology to relate massive amounts of data that is useful information; automates discovery of patterns and linkages to detect and deter crime and terrorism; and affords enhanced nationwide law enforcement communication and collaboration.

The process of connecting the dots between seemingly unrelated pieces of criminal data housed in different places is the backbone of N-DEx. The system enables its law enforcement users to submit certain data to a central repository—located at our Criminal Justice Information Services (CJIS) Division in West Virginia—where it is compared against data already on file from local, state, tribal, and federal agencies to identify links and similarities among persons, places, things, and activities across jurisdictional boundaries. The State of Delaware is a full partner in the N-DEx project.

OneDOJ enables the FBI to join participating federal, state, tribal, and local law enforcement agencies in regional full-text information sharing systems under standard technical procedures and policy agreements.

Lastly, the LEO network provides web-based communications to the law enforcement community to exchange information, conduct online education programs, and participate in professional special interest groups and topically focused dialogue. It is interactive and provides state-of-the-art functions such as real-time chat capability, news groups, distance learning, and articles on law enforcement issues.

LEO started in 1995 as a small dial-up service with just 20 members. Now, it has more than 100,000 members across the world and a host of features and capabilities offered through a Virtual Private Network on the Internet.

LEO offers many tools that cross-cut all law enforcement agencies on a global basis. There is no other on-line service that matches its capabilities. For example, LEO hosts the eGuardian system, which is a sensitive but unclassified (SBU) information sharing platform developed to help meet the challenges of collecting and sharing terrorism-related activities amongst law enforcement agencies across various jurisdictions. It allows law enforcement agencies to combine new suspicious activity reports (SARs) along with existing (legacy) SAR reporting systems to form a single information repository accessible to thousands of law enforcement personnel. The information captured in eGuardian is also migrated to the FBI's internal Guardian

system, where it is assigned to the appropriate Joint Terrorism Task Force (JTTF) for any further investigative action.

LEO is also home to the Virtual Command Center (VCC). In Delaware, I have made the VCC the main centerpiece of our strategy to share information in a major crisis. VCC provides an "Events Board" feature which allows information to be posted as the event occurs and allows us to post photographs, scanned documents, and any information deemed pertinent to the crisis. Whatever agency is hosting the VCC can allow access to individual persons or entire agencies if needed. Critical Incident Managers, such as emergency planners, now can remotely have access to a crisis without having to be on-scene.

The FBI is a participating member of the Law Enforcement Coordinating Committee (LECC) in the District of Delaware. The LECC serves as a catalyst for forging partnerships with federal, state, and local law enforcement and prosecutors.

But our commitment to information sharing does not stop with our law enforcement partners. The FBI-sponsored InfraGard brings together representatives from the private and public sectors to help protect our nation's critical infrastructure and key resources from attacks by terrorists, criminals, and others who would do us harm. It is a partnership that makes sense, since most U.S. infrastructure components—like utility companies, transportation systems, telecommunication networks, water and food suppliers, public health, and financial services—are privately owned and operated.

The following are just a few examples of the FBI's efforts to share information and leverage all available resources and expertise to combat the threats posed by terrorism and criminal enterprises.

Counterterrorism

As one of the few members of the U.S. Intelligence Community with a combined law enforcement and intelligence mission, the FBI serves as a critical link between the intelligence and law enforcement communities in the United States. We are committed to working together to prevent both crime and terrorism, here at home and with our partners around the world.

In Delaware, the FBI maintains a Joint Terrorism Task Force (JTTF) in the Wilmington RA. In addition to FBI agents, there are full-time Task Force Officers (TFOs) from partner agencies, including the Delaware State Police (DSP), U.S. Immigration and Customs Enforcement (ICE), Bureau of Alcohol, Tobacco and Firearms (ATF), Wilmington Police Department (WPD), Delaware Department of Corrections (DOC), and Delaware Division of Alcohol and Tobacco Enforcement (DATE). Each of the JTTF TFOs has the necessary credentials and clearances required to fully participate. In total, twelve agencies participate and contribute to the Task Force.

While JTTFs are certainly considered part of the FBI's formalized information sharing strategy, many of our successes over the recent years have come from the benefit of co-location and direct outreach to our federal, state and local partners. For example, recognizing that much of the work

of the FBI and the rest of the Intelligence Community are within a classified information environment, I have offered every Police Chief in Delaware the opportunity to apply for a SECRET security clearance. This is a vital part of our local information sharing strategy because every month, we bring in all the cleared Chiefs and provide a classified threat briefing, including: (1) timely Homeland threat reporting; (2) threat trend analysis; (3) information about specific terrorist groups and extremist activities; and (4) current investigations of the Baltimore JTTF.

Cyber Crime

We have cyber squads in each of our 56 field offices around the country, with more than 1,000 specially trained agents, analysts, and digital forensic examiners. Together, they run complex undercover operations and examine digital evidence. They share information with our law enforcement and intelligence partners and they teach our counterparts—both at home and abroad—how best to investigate cyber threats. The Wilmington RA has agents specifically designated for cyber investigations with extensive specialized training. In complex cyber cases, additional resources are provided by the Baltimore Field Office and FBI Headquarters.

Between 2008 and 2011, FBI Agents in the Wilmington and Dover RAs, working in coordination with the DSP High Tech Crimes Unit (HTCU), successfully investigated cyber criminals, such as child predators, producers of child pornography and distributors of child pornography. Ongoing joint investigations by the FBI/DSP HTCU involve other cyber-related violations, including computer intrusions, copyright infringement, wire fraud, and mail fraud.

Street Gangs and Violent Crime

Gangs are no longer limited to urban areas, but have migrated to more rural settings. Gangs have also infiltrated our prisons and even the military. Gangs have diversified from drug running and petty crime to armed robbery, home invasions, mortgage and health care fraud, and even human trafficking.

While local neighborhood gangs pose the most serious crime threat in Delaware, national gangs such as the Bloods, Crips, and Almighty Latin Kings are present and active here. The Delaware Safe Streets Task Force has identified members of the Latin Kings operating in the New Castle County area, including the City of Wilmington. Latin King members are involved in a myriad of criminal activities, including the distribution and sale of narcotics, weapon trafficking, murder, assault, armed robbery, kidnapping, burglary, auto theft, money laundering, extortion, racketeering, public corruption and intimidation and alien smuggling. The gang is also known to order "hits" on correctional officers, rival gang members and members who fail to follow orders.

To combat the threat posed by these dangerous gangs, I have redirected resources to the Delaware Violent Crime Safe Streets Task Force over the past year. This task force is focused on violent gangs, significant crimes of violence, and the apprehension of violent fugitives through sustained, proactive, coordinated investigations of racketeering, drug conspiracy, and firearms offenses.

In the past six months, working with the Wilmington Police Department, we have assigned analysts and Special Agents to provide in-depth assessments of repeat violent criminals and uncover indicators of organized gang activity. These assessments, reviewed by our partners in the Offices of the U.S. Attorney and Delaware Attorney General, will be used by the task force to both target the State's most violent gang members and to determine the most appropriate judicial venue to dismantle these gangs.

It is the FBI's vision that the Delaware Information and Analysis Center (DIAC) - a primary fusion center within the national fusion center network - will become the state's "all source" information repository. Our experience in Maryland has been that the fusion center structure offers the best forum to collect, analyze and disseminate information to the entire law enforcement community. To that end, I am working to staff the DIAC with a full-time analyst under the regular supervision of the Delaware State Police.

Our efforts in this area have already helped the FBI and its partners realize some significant successes. In a recent homicide case, for example, an FBI informant provided valuable information regarding the suspected killers. This information was provided to WPD and resulted in the arrest and conviction of the killer. In another case, an FBI agent working with the DSP to solve an armed robbery case was able to identify a subject from a surveillance photograph as a Latin King. This link enabled the DSP to link other robberies and Latin King members. As I appear before you today, all of the agencies on the Delaware Safe Streets Task Force, including the NCCPD, WPD, DSP, DIAC, FBI, ATF, and DEA, are working to identify active members of the organization for use in ongoing and future investigations.

White Collar Crime

As the home of some of the nation's largest banks and credit card companies, Delaware is an inviting target for white collar criminals. The FBI works closely with local agencies to detect and investigate fraud, theft, or embezzlement occurring within or against Delaware's financial community. In one recent case, the FBI initiated a mortgage fraud investigation based on information provided by the New Castle County Police Department (NCCPD) and the U.S. Marshals. During the course of a parental kidnapping investigation, the NCCPD and Marshals discovered that David Matuisewicz had fraudulently obtained a second mortgage on his home by forging his ex-wife's signature on Wilmington Savings Fund Society (WSFS) documents. Working with the FBI, the NCCPD and Marshals discovered that Matuisewicz had used the proceeds from the mortgage fraud to take his three young daughters out of the U.S. By working together, the FBI, NCCPD, and Marshals located Matusiewicz and the children and traced the money. As a result of this joint effort, the children were returned to their custodial parent and Matusiewicz was sentenced to four years in jail, five years of supervised release and a $9,600 fine. In addition, $250,000 in mortgage fraud proceeds were recovered and returned to WSFS Bank.

The FBI also participates in various working groups dedicated to sharing information on serious financial crimes. For example, the Delaware Mortgage Fraud Working Group reviews and coordinates ongoing investigations, complaints, threats and SARs related to mortgage fraud. Participating agencies include, but are not limited to: FBI, Social Security Administration, IRS,

Delaware Department of Justice (Attorney General's Office), U.S. Housing and Urban Development (HUD OIG), and financial institutions. The FBI also coordinates closely with the Securities and Exchange Commission and the Delaware Attorney General's Office on potential financial frauds. These coordination meetings are critical to assessing and addressing the threat posed by white collar criminals operating in or impacting financial institutions in Delaware.

Drug Trafficking

Drug trafficking is often linked to gang activity and violent crime. The diversion of prescription drugs, such as Oxycodone, is an increasing source of revenue for drug dealers in Delaware and across the nation. The FBI, DEA, and the DSP are sharing information to stem the tide of prescription drugs entering the illegal drug networks in Delaware. In one recent case, the DSP informed the FBI of suspicious money laundering activity by a husband and wife team. Through their joint investigative effort, the FBI, DEA and DSP uncovered a large network of individuals who purchased Oxycodone pills and resold them at a profit to addicts and other drug dealers. As a result of this joint effort, three individuals were arrested on September 12, 2009, and charged with Conspiracy to Distribute Oxycodone and Distribution of Oxycodone. They have since pled guilty and are awaiting sentencing.

Intellectual Property

Intellectual Property Rights (IPR) violations, including theft of trade secrets, digital piracy, and trafficking counterfeit goods, result in billions of dollars of losses each year. These threats also pose significant risk to U.S. public health and safety via counterfeit pharmaceuticals, electrical components, aircraft parts and automobile parts. Protecting intellectual property bolsters confidence in our economy, creates opportunities for growth, and promotes fairness and competitiveness in the marketplace.

IPR investigations are a high priority for the FBI. The FBI is an active partner in, and is co-located at, the National Intellectual Property Rights Coordination Center (IPR Center), an interagency task force consisting of 18 member agencies mandated to combat intellectual property theft. Intellectual property investigations are extremely complicated and difficult to investigate. A criminal organization or hostile intelligence service no longer has to physically infiltrate our businesses or government buildings to steal secrets. With relatively unsophisticated computer hacking skills, terabytes of proprietary information can be downloaded with a few key strokes onto a device smaller than your thumb. U.S. businesses lose billions of dollars, the U.S. government loses critical technology and, oftentimes, these facts are never even known.

A recent example of the FBI's success in this arena in Delaware is the arrest of former DuPont scientist Dr. Hong Meng. Dr. Meng was a synthetic chemist with DuPont who worked to develop Organic Light Emitting Diodes (OLEDs), the future of lighting and display technologies. Unbeknownst to DuPont, Dr. Meng had covertly accepted a position with Peking University as a chemistry professor despite informing DuPont that he planned to transfer to their offices in Shanghai. Dr. Meng emailed trade secret information to his email account at Peking University, solicited investment funding from Chinese provincial governments, and applied for Chinese government grants for OLED-related research. Faced with compelling evidence

collected by the FBI and the U.S. Attorney's Office in Delaware, Dr. Meng pleaded guilty to theft of trade secrets charges in June 2010. He was sentenced to fourteen months in jail and ordered to pay $58,000 in restitution to DuPont.

Conclusion

The FBI remains committed to its responsibility to aggressively combat the threats posed by criminal elements in our communities. To maximize our current resources, we have used our expanded and maturing intelligence collection and analysis capabilities to better identify and understand the growing threat posed by violent criminals. We also continue to rely heavily on the strong relationships we have with our law enforcement and community partners. Much work remains to be done. We will continue to strive for better methods and enhanced communication among partners in law enforcement and the community.

Thank you for allowing me the opportunity to testify before you today. I am happy to answer any questions at this time.

PREPARED STATEMENT OF COLONEL ROBERT COUPE, SUPERINTENDENT, DELAWARE STATE POLICE, DOVER, DELAWARE

Delaware State Police report to;

Hearing of the Senate Committee on the Judiciary: "Building Safer Communities: the Importance of Effective Federal-Local Collaboration in Law Enforcement"

Senator Patrick Leahy (D-Vt.), Chairman of Senate Judiciary Committee

Senator Chris Coons (D-Del.), Member of Senate Judiciary Committee

Senator Coons will preside over this hearing.

Monday, June 20, 2011 at 11 a.m.

Carvel State Office Building

820 North French Street

2nd Floor Auditorium

Wilmington, DE

Witnesses:

James Burch, Principal Deputy Director of the Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice

Colonel Robert Coupe, Superintendent, Delaware State Police

Drewry Fennell, Executive Director, Delaware Criminal Justice Council

Chief James Hosfelt, Dover Police Department

Special Agent in Charge Richard McFeely, Baltimore Division, Federal Bureau of Investigation

*Report prepared by Robert Pinkerton, Analyst Delaware Information and Analysis Center (DIAC)

Pre-9/11 Information/Intelligence Sharing Among Delaware Law Enforcement

Prior to the current, increased emphasis on information and intelligence sharing following the events of 9/11, such coordination between state and local law enforcement agencies in Delaware was limited at best. While departments would occasionally share case data, it would not be a regular practice, particularly for more routine cases such as burglary trends or robberies. Such information or intelligence was considered proprietary of whatever agency had collected it, and it was not disseminated to neighboring or requesting jurisdictions on a regular or consistent basis. These practices were considered normal prior to the rise of "intelligence-led policing", which has evolved post-9/11. Generally speaking, law enforcement agencies did not consistently have access to critical intelligence necessary to investigate criminal cases across jurisdictional lines or between the Federal, state, or local levels.

Current Federal-State-Local Law-Enforcement Information/Intelligence Sharing

General

The flow of information between Federal, state, and local agencies has greatly improved with the establishment of formal inter-agency relationships between the JTTF and fusion centers (specifically the DIAC). This provides a formal structure for the sharing of investigative details for criminal investigations or for threat streams under the umbrella of counter-terrorism. State and local law enforcement officers are now provided with timely information from a variety of sources, including Federal, state, and local partner agencies, to facilitate both day-to-day operations and long-term investigations.

Delaware Information and Analysis Center (DIAC)

The Delaware Information and Analysis Center (DIAC) is the state fusion center for Delaware, utilizing sworn officers, intelligence analysts, and liaisons from Federal partner agencies to develop intelligence products for a variety of law enforcement and civilian agencies. The DIAC was created in the Spring of 2005. It serves as a conduit and filter for intelligence and other information for the Delaware State Police as well as its Federal, state, and local partner agencies, both law enforcement and civilian. DIAC is proactive in reaching out to partner

agencies and in disseminating intelligence in a fast, efficient manner, using a variety of products, which include, but are not limited to:

- Daily Roll-Call Bulletin (BOLOs, Requests for Information, Officer Safety Bulletins, et al. for Federal, state, and local law enforcement officers);
- Subject Matter-Specific Bulletins (for example: Daily Infrastructure Bulletin, Delaware Drug Bulletin);
- Threat Assessments;
- On-site analytic support during specific operations, such as Special Operations Response Team (SORT) operations; and
- Long-term analytic projects, such as analytic support for Operation Pressure Point a joint operation between the DSP and the Wilmington City Police Department, an on-going money laundering investigation with Federal partner agencies, and support for the Delaware State Police's Maritime Unit.

The Role of the Joint Terrorism Task Force (JTTF)

The Delaware Joint Terrorism Task Force (JTTF) was created in 2004 and has always had a relationship with the Delaware Information and Analysis Center (DIAC).

Presently, the Delaware JTTF, led by the FBI from the Wilmington Resident Agency, consists of over two dozen Delaware law enforcement agencies. The Delaware State Police (DSP) Task Force Officer (TFO) assigned to the Delaware JTTF is based out of the DIAC and is primarily responsible for Terrorism Threat assessments that are generated from the 1-800-Force-12 tip line. These leads are collected at the DIAC, reviewed, and entered into the FBI Guardian system. The DIAC has access to classified FBI information at the SECRET level via several FBI computers installed in a SECRET level secure room within the DIAC.

Additionally, the DSP TFO is the program manager for the new Delaware Threat Group, which was formed in 2011 and consists of the DSP, Delaware Capitol Police, Delaware Alcohol and Tobacco Enforcement, and Georgetown Police. The Threat Group also coordinates coverage of all Delaware-based Guardian leads. The Threat Group also serves as support resources to JTTF case agents. Each TFO is deputized as Federal Officer and can assist in all Federal investigations.

The DIAC Homeland Security analysts are briefed on all pending Delaware JTTF investigations on a monthly basis or as needed depending on the threat level.

Other Federal Agencies at DIAC

DHS: There is one Department of Homeland Security (DHS) intelligence officer working at the DIAC. His primary responsibility is to serve as a liaison between the DIAC and Federal agencies, as well as to assist in providing real-time situational awareness.

FPS: There is one Federal Protective Service (FPS) special agent working part time at the DIAC. Her primary responsibility is to facilitate the flow of information between DIAC and FPS regarding crime, First Amendment protests, and other activities occurring in proximity to Federal facilities, as well as to send any pertinent Federal information to the DIAC.

ATF: There is one Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) analyst working at the DIAC. His primary task is to assist with iTrafficking, a crime-gun intelligence sharing pilot program, undertaken by the International Association of Chiefs of Police (ICAP), ATF, and the Bureau of Justice Assistance, currently being tested in Delaware, New York, Maryland, and Pennsylvania.

FBI: The Federal Bureau of Investigation (FBI) provides information and analytical support to the DIAC via the JTTF. The JTTF also provides Secret-level monthly briefings to law enforcement executive personnel.

In addition, DSP and local police departments have officers assigned to work with the Drug Enforcement Administration (DEA), US Marshals Service, and ATF Task Forces to facilitate operational coordination and information sharing across jurisdictional lines

Networks and Databases

Post-9/11, several online networks and databases have been developed which have proved useful for the purpose of sharing intelligence and other information between law enforcement agencies. These include, but are not limited to:

- Statewide Intelligence System (Memex Patriarch) – A private sector-developed intelligence software product that serves as Delaware's statewide intelligence database, providing a searchable database for both intelligence reports and suspicious activity reports (SARs);
- Law Enforcement Online (LEO) – A website accredited and approved by the FBI for sensitive but unclassified information. LEO is intended to be used to support investigative operations, send notifications and alerts, and provide an avenue for Federal, state, and local personnel to remotely access other law enforcement and intelligence systems and resources;
- Homeland Security State & Local Intelligence Community of Interest (HS-SLIC) – An information sharing website for Federal, state, and local intelligence agencies and fusion centers;
- Regional Information Sharing Systems (RISS) - a Federally funded nationwide program consisting of six regional centers and a technical support center that provides flexible and locally based services to Federal, state, local, and tribal law enforcement and criminal justice agencies nationwide, as well as Australia, Canada, the United Kingdom, and New Zealand. RISS maintains the RISS Secure Intranet (RISSNET), which allows for the sharing of information and intelligence between members; and
- Guardian/E-Guardian – A centralized nationwide database for SARs.
- Law Enforcement National Data Exchange (N-DEx) – A website, operated by the FBI under the auspices of the Criminal Justice Information Services (CJIS), that brings together data from law enforcement agencies nationwide, including incident and case reports, booking and incarceration data, and parole/probation information. N-DEx then detects relationships between people, vehicles/property, locations, and/or crime characteristics. The site also assists in information sharing between law enforcement agencies, fusion centers, and multi-jurisdictional task forces by notifying the organizations involved when links are found following a query on N-DEx. All law enforcement personnel and analysts who have attended N-DEx training have access to N-DEx;

The Statewide Intelligence System (Memex Patriarch) is available to all law enforcement officers and personnel. HS-SLIC and Guardian/E-Guardian is accessible by those with a need and right to know.

Other means of information sharing between Federal, state, and local agencies include, but are not limited to:

- Weekly HS-SLIC conference calls;
- Coordination through the Middle Atlantic-Great Lakes Organized Crime Law Enforcement Network (MAGLOCLEN), which is one of the six RISS regional centers and which facilitates information sharing between fusion centers in the Midwest and Mid-Atlantic region as well as portions of Canada;
- Monthly Fusion Center Director Teleconferences;
- Monthly "Delaware Policy Makers" meetings hosted by the FBI at the United States Air Force base in Dover, DE. All law enforcement agency heads with proper security clearance are invited.
- Virtual Command Centers (VCCs) set up by the FBI on LEO for special events (such as the Delaware State Fair and NASCAR races at Dover Downs);
- Federal Intelligence Officers deployed to fusion centers (e.g. the DHS Intelligence Officer working at the DIAC); and
- The Baseline Capability Assessment.

Success Stories

On September 29, 2006, DIAC included in its Weekly Intelligence Bulletin a situational awareness article about the recent arrests of two Delaware residents in Oklahoma on drug trafficking charges. The Drug Enforcement Administration (DEA) Wilmington Office, after reading the article, contacted authorities in Oklahoma and were able to gain the cooperation of the suspects. This led the DEA to a drug source in Delaware on whom they had been trying for years to develop a successful case. With the cooperation of the defendants in the Oklahoma case, the DEA was able to arrest and convict the drug source in July 2008.

On January 7, 2009, DIAC released a Special information Bulletin regarding an unidentified bank robbery suspect. The Dover (Delaware) Police Department contacted DSP later that morning with a possible name of the suspect, and his identity was confirmed several hours later by the State Bureau of Identification (SBI) using finger prints found on a bank note.

On May 18, 2011, the Delaware State Police Homicide Unit was investigating a murder that occurred at a motel located on the outskirts of Wilmington. Having identified the suspects, the investigators recognized the obvious priority of locating the suspects and alerting area jurisdictions to the incident. They contacted the DIAC to request a multi-jurisdictional alert to be sent to law enforcement agencies within the region as well as fusion centers in neighboring states. The resulting "Special Information Bulletin" was quickly disseminated to the targeted law enforcement agencies, and within 24 hours of the bulletin's issuance, Wilmington Department of Police patrol officers apprehended both suspects, having recognized the from the bulletin, and recovered a knife that may possibly be the murder weapon.

Secure Communities Program

Secure Communities is a comprehensive ICE initiative that focuses on the identification and removal of aliens who are convicted of a serious criminal offense and are subject to removal, including the utilization of advanced biometric and communications technology to share information among law enforcement agencies to identify, detain, and remove from the US aliens who have been convicted of a serious criminal offense and are subject to removal. Beginning on April 20, 2010, fingerprints collected by the State Bureau of Identification (SBI) via the Integrated Automated Fingerprint Identification System (IAFIS) are now crosschecked between the FBI and ICE databases. In its first month of operation, the Secure Communities program identified 56 foreign nationals who had been convicted of serious criminal offenses using the methods described above.

Future Information/Intelligence Sharing

Areas for Improvement for Collaboration Between Federal, State, and Local Law Enforcement

There are several areas for improvement that would improve the process of exchanging timely information between Federal, state, and local law enforcement agencies.

- Increase the utilization of the Statewide Intelligence System (Memex Patriarch), which would increase the amount of positive intelligence available to investigators and patrol officers;
- Increased briefings and training on homeland security topics for law enforcement personnel, such as possible 8-hour annual training courses covering homeland security topics; and
- Addition of New Castle County to the Philadelphia-Camden High Intensity Drug Trafficking Area (HIDTA). This would provide additional financial and intelligence support to Delaware counter-drug operations. The HIDTA would not be a duplication of the DIAC's mission and capabilities, but would instead assist and supplement the organization.

Other Suggested Improvements

There is a large amount of redundancy regarding the suspicious activity report (SAR) data that is contained in both e-Guardian and NSI Shared Space. Since the information included in both systems is virtually the same but maintained as separate entities, some means of combining them would be more efficient.

Another area for improvement would be a general promotion of the concept of intelligence-led policing. The culture of reactive police work is still prevalent in law enforcement, and intelligence-led policing would be helpful not only to counter homeland security threats, but also future street crime violence and organized crime. This can be facilitated possibly through annual homeland security-relevant training for law enforcement personnel.

For state and local intelligence entities and fusion centers, a mentorship or training program through one of the Federal agencies or training institutes can help personnel in such units to understand emerging threats and to foster the flow of communication and information between Federal, state, and local organizations.

PREPARED STATEMENT OF CHIEF JAMES HOSFELT, DOVER POLICE DEPARTMENT, DOVER, DELAWARE

U.S. Senate Judiciary Committee Field Hearing

Wilmington, Delaware

June 20, 2011

I. Past Information / Intelligence Sharing

In 1988, when I began my career in law enforcement, there didn't seem to be much in the way of information sharing. Then, it was a matter of protecting your interests and it was believed the best way to do this was not to share information. We (law enforcement) were more concerned about jurisdictions and protecting what was ours than looking at the bigger picture and what was best for everyone. Fortunately for everyone, this appears not to be the case now and I believe our specialized units have helped to lead the way in this change. From my perspective, different Drug Units and SWAT Teams from local and state law enforcement agencies began working together out of necessity; they pooled their resources to accommodate long term investigations or operations. This not only led to increased information sharing, but to increased training with other agencies as well.

II. Present Information / Intelligence Sharing

Over the course of my 23 years with the Dover Police Department, technology, in my opinion, has had the greatest impact on information sharing among local and state law enforcement agencies. Twenty years ago a police officer was dispatched to a complaint, completed a handwritten report, turned it into his supervisor, who then sent it to the records division were it was stored and only shared when requested. Now officers are dispatched to a complaint either by computer or radio, they complete a computer based police report in the Law Enforcement Investigative Support System (LEISS), which is then available for anyone having access to the system throughout the state. The same is true for arrest warrants, officers now complete arrest warrants through a similar program which is available for all law enforcement agencies to review.

Statewide information and intelligence sharing has increased significantly over the years because of the Delaware Information and Analysis Center (DIAC). This fusion center is a key component of information sharing of criminal intelligence and supports statewide law enforcement investigations. The success of DIAC is largely due to the information support system it receives, not only from state agencies, but from regional and federal partners alike. In other words, you get out of it what you put into it.

I can think of no greater example of information and intelligence sharing for the State of Delaware than Dover Downs International Speedway. Twice a year Dover Downs hosts NASCAR events involving all three major racing series. On a normal day the population of the City of Dover is believed to be about 40,000 people. On these two weekends it rises to well over 300,000 people, including fans, race teams, vendors, and television support personnel. Following the tragedy of September 11, 2001, the NASCAR race at Dover Downs was the first major sporting event to be held anywhere in the nation. The success of that weekend and all those following is because of the teamwork between a private business, federal, state and local law enforcement agencies. The Joint Operations Center (JOC) is a hub of activity every race weekend involving the collaboration of information being shared by the Dover Police Department, Delaware State Police and the Federal Bureau of Investigation.

The Federal Bureau of Investigation (FBI) has become a significant partner in the information sharing business. Currently the FBI hosts a monthly information sharing meeting known as the "Policy Makers" briefing which is held at Dover Air Force Base. Senior law enforcement officials throughout the state and with the appropriate security clearance are invited to the briefing where terrorism information is passed on to those in attendance. Additionally, the Dover Police Department and the FBI have entered into a training agreement where we provide the training location and they supply the instructors for a wide variety of law enforcement related subjects. The Bureau also provided funding for technical upgrades to our existing training facility to support these training efforts. To this date, one class involving "Search & Seizure" has been taught and others covering various topics are in the planning stages. Select officers throughout the State of Delaware are given the opportunity to attend the FBI's National Academy in Quantico, VA, each year. This intensive 10 week course provides executive law enforcement training, as well as, a unique networking system because each session hosts approximately 250 law enforcement students from around the world. Because of the relationships formed during the session, information is shared by classmates throughout the nation and beyond long after graduation.

Currently, the Dover Police Department has two officers assigned full time to the Drug Enforcement Administration (DEA) task force. This has been an ongoing relationship since the mid 1990's and is one we value very much. It is our belief that about 85% of our violent crime in Dover is tied one way or another to illegal drugs and because of the resources the DEA brings to the table we have managed to hold our ground in the war on drugs. As Chief of a 93 man department I could never afford to fund a long term investigation involving wiretaps and surveillance, but because of the resources that the DEA brings through both manpower and funding I am able to conduct these types of investigations. The obvious result of any of these investigations is the arrest of those involved, but what comes with that is the seizure of money, property and vehicles once owned by those arrested. As you well know, 80% of all assets seized during these investigations come back to the local or state law

enforcement partners taking part in the investigation. This is significant and provides the Dover Police Department with additional funding to support equipment purchases and training initiatives which ultimately come back to support the fight against the illegal drug trade. One recent example, with the support of the Drug Enforcement Administration and the Delaware State Police, the Dover Police Department is in the final stages of a major drug investigation involving illegal prescription medication (Percocet & Oxycodiene). Thousands of pills were brought into the Dover area by an identified from over 1500 miles away. Because of the long arm of the DEA, we were able to arrest the dealers in this area as well as the supplier several states away. This case is expected to result in the seizure of millions of dollars in money, property, and vehicles, all of which will help support our ongoing efforts to combat illegal drugs.

The United States Marshalls Service and their Fugitive Recovery Team has been of great assistance to the Dover Police Department over the course of the last few months. On two separate occasions the Marshalls Task Force has responded to Dover and assisted in the recovery of two subjects wanted on several felony charges. The first subject was a known felon and was again wanted on several charges relating to receiving, possessing, and concealing stolen firearms. The second subject was wanted in connection with the ongoing rape of a 10 year old female. On both occasions, it was believed the subjects were staying in the area, but could not be located without the assistance of the Marshalls Task Force and the specialized equipment they make use of during these joint investigations.

It is not just these federal agencies described above who assist the Dover Police Department. There are several other examples such as, the ATF supplying a sketch artist which helped our Criminal Investigations Unit with a burglary investigation, the Secret Service conducting polygraph examinations or ICE helping with counterfeit merchandise and trademark violations. During the May NASCAR race this year, agents assigned to the Immigration and Customs Enforcement Agency worked with undercover Dover Police Detectives and seized thousands of dollars worth of counterfeit merchandise and in the process uncovered an illegal gambling operation and seized thousands of dollars as a result. This has prompted an investigation by the Internal Revenue Service into the illegal gambling operations of the subjects arrested.

III. Future Information Sharing

With any program there is always room for improvement, but the collaboration between federal, state and local law enforcement in Delaware has to be an example for others to follow. I believe the size of our state has a lot to do with that and allows for direct communications at events each month such as the Delaware Policy Makers briefing and the Delaware Police Chiefs Counsel meetings.

IV. Funding Aid

The Dover Police Department is grateful for the funding supplied through the COPS Hiring Program. As a result of this funding the Dover Police Department was able to hire three 911 center dispatchers in 1997, four law enforcement patrol officers in 2002, two school resource officers in 2004, and one additional patrol officer in 2009. All those hired under the COPS Program are still employed and working full time for the Dover Police Department. Has this federal funding led to measurable public safety improvements, without a doubt? During each of the last five years I have seen a significant increase in the number of complaints assigned to my officers and without the support received through the COPS programs my department's ability to provide quality public service would have been diminished. The addition of these officers has given the Dover Police Department the flexibility to reallocate manpower to address specific problems in high crime areas. It has allowed us the option of adding officers to the Criminal Investigations Unit and the Drug Unit to support the growing trend of violent crime and gang activity in our city.

Currently, "SWAT" teams from throughout the state train together because of funding received through the department of Homeland Security. With this funding we were able to construct a training complex which is utilized to support the teams while helping them meet federal requirements for SWAT typing or classification.

In closing, I leave you with this, the cooperation between federal, state and local law enforcement continues to have a positive effect on crime in our communities. The benefits are obvious to those in law enforcement and have helped to improve the quality of life for the residents of Dover. It is vital that this cooperation between law enforcement agencies continue and I urge your continued support through funding sources such as the COPS program.

Sincerely,

Chief James E. Hosfelt Jr.

Dover Police Department

400 S. Queen Street

Dover, De 19904

PREPARED STATEMENT OF JAMES BURCH, PRINCIPAL DEPUTY DIRECTOR, BUREAU OF JUSTICE ASSISTANCE, OFFICE OF JUSTICE PROGRAMS, WASHINGTON, DC

Department of Justice

STATEMENT

OF

JAMES H. BURCH, II
DEPUTY DIRECTOR
BUREAU OF JUSTICE ASSISTANCE
OFFICE OF JUSTICE PROGRAMS

BEFORE THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

ENTITLED

"BUILDING SAFER COMMUNITIES: THE IMPORTANCE OF EFFECTIVE FEDERAL-LOCAL COLLABORATION IN LAW ENFORCEMENT"

PRESENTED ON

JUNE 20, 2011

Statement of James H. Burch, II
Deputy Director
Bureau of Justice Assistance
Office of Justice Programs
U.S. Department of Justice

Before the
Committee on the Judiciary
United States Senate
Field Hearing, Carvel State Office Building, Wilmington, DE

"Building Safer Communities: The Importance of Effective Federal-Local Collaboration in Law Enforcement"

June 20, 2011

Chairman Coons and Chairman Leahy, thank you for this opportunity to testify here today and to discuss federal assistance for state, local and tribal law enforcement and the importance of effective federal-local collaboration in law enforcement.

My name is James Burch and I am the Deputy Director of the Bureau of Justice Assistance (BJA) in the Office of Justice Programs (OJP), U.S. Department of Justice (DOJ). From January 20, 2009, until June 6, 2011, I served at the request of President Obama as the Acting Director of BJA, DOJ's largest funding and support agency serving state, local and tribal law enforcement. BJA's mission is to provide leadership and services in grant administration and criminal justice policy development to support state, local, and tribal justice strategies to achieve safer communities. BJA partners with OJP's bureaus and offices: the Bureau of Justice Statistics; the National Institute of Justice (NIJ); the Office of Juvenile Justice and Delinquency Prevention; the Office for Victims of Crime; and the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART) to provide leadership, research, information, and essential funding in support of state, local, and tribal criminal and juvenile justice strategies to achieve safer communities.

OJP believes we have the responsibility to be smart about fighting crime, to collectively provide public safety officials information they need to make the best decisions about crime-fighting strategies, to help them leverage resources – federal, state, local and tribal – to meet their needs in their jurisdictions, and to assist them in developing these strategies in ways that promote cost savings, efficiencies, and sustainability.

In recent years, our country has experienced a historic decline in crime – in my view, due largely to visionary law enforcement leadership and innovative community-based approaches at the local level. However, challenges remain for us to address together. While crime rates overall remain extraordinarily low, some communities are experiencing spikes in specific types of crime, gang violence continues to plague many of our nation's cities, and the continuing threat of terrorism posed by domestic and foreign extremists remains an enduring, constant challenge

for our justice systems and our communities. As all levels of government are experiencing exceedingly difficult budgetary problems, we need to make sure we utilize taxpayer dollars wisely. To accomplish this, BJA is investing in building stronger partnerships to support local, state, and tribal agencies, and investing in innovative programs and evidence-based approaches that are effective and efficient. Effective federal-local collaboration requires strong partnerships, in addition to partnering with state, local and tribal law enforcement, BJA works very hard to collaborate with criminal justice organizations and federal law enforcement. I also want to acknowledge the important collaboration between the Department's Office of Community Oriented Policing Services – better known as the COPS Office, and BJA to support state, local, and tribal law enforcement. BJA and COPS are working together to coordinate training and technical assistance and on key topics including officer safety, legitimacy and community trust, and in other areas. COPS Office resources are critical to local law enforcement and our coordinated support will ensure that we are as efficient as possible in improving community safety.

State, Local, and Tribal Partnerships

Supporting our partnerships with state, local, and tribal law enforcement remains a top priority of this Administration and of the Department of Justice. In particular, the Administration remains firmly committed to the Edward Byrne Memorial Justice Assistance Grant (JAG) program. The JAG Program, administered by BJA, is the leading source of federal justice funding to state and local jurisdictions. JAG was purposely designed to be very flexible to empower states, tribes, and local governments to support a range of activities designed to reduce and prevent crime, violence, and drug abuse. JAG is a vital source of funding for state, local, and tribal law enforcement. It has supported both basic criminal justice operations and innovative crime-fighting approaches. Since 2009, BJA has provided over $16 million in JAG funding to Delaware and eligible local jurisdictions. JAG is BJA's and indeed, OJP's flagship program. The Administration has again requested $519 million in funding for JAG in the Fiscal Year (FY) 2012 budget request.

Every year, jurisdictions across the country use JAG funding to discover new ways to reduce and prevent crime, violence, and drug abuse, and to improve the criminal justice system. Identifying successful and promising practices that improve community safety is a priority for BJA. To that end, we created the JAG Showcase, an online resource that highlights JAG sub-grantee and/or statewide projects that have demonstrated success or shown promise. We believe the Showcase will serve as a resource to support criminal justice professionals in the field who seek to stay informed about some the most interesting, innovative, results-oriented projects that have been funded with JAG money in the last several years.

Here in Delaware, the State's Criminal Justice Council has emerged as a strong leader in using JAG funding to support the state's most pressing and chronic justice system issues, such as working with persons who enter and return to the system with mental illness and addressing violent crime. The Council's leadership has worked collaboratively with other state agencies to identify these critical issues and to build strategic partnerships to address the issues that impact Delaware communities, both urban and rural.

BJA also supports state, local and tribal agencies through our National Training and Technical Assistance Center. Training and technical assistance are some of the most effective uses of public safety dollars. BJA offers a robust infrastructure providing training for law enforcement, courts, corrections, substance abuse and mental health service providers, justice information sharing professionals, crime prevention specialists, and tribal communities. This past April in Dover, BJA hosted training on the characteristics of an armed gunman to approximately 200 law enforcement and corrections personnel. Our services focus on imparting information and skills from experts in the field and from local peers that target the specific needs and evolving issues facing the criminal justice community. Eligible recipients – which include any justice organization, not just those that receive our funding – can also request a variety of assistance online. We continuously update our offerings, based on emerging needs from the field, and we are looking to expand the range of resources available to every community.

BJA's training and technical assistance are the underpinning of many of our new and innovative programs; as budgets continue to shrink and grant funding opportunities become more and more competitive, our training and technical assistance will become even more vital to supporting our state, local, and tribal law enforcement partners quickly and effectively.

Supporting Officer Safety

BJA strives to reduce preventable injuries and deaths by emphasizing officer safety through the Attorney General's Officer Safety Initiative and our Officer Safety Training and Technical Assistance portfolio to support state, local, and tribal law enforcement efforts. Every day, these officers make tremendous sacrifices, and every day they risk their lives. Tragically, we have all seen and heard the stories about law enforcement officers killed in the line of duty. In 2010, officer line of duty deaths increased by 40 percent over 2009. Since January 2011, 84 law enforcement officers have been killed in the line of duty.[1] BJA's programs aid the thousands of state, local, and tribal law enforcement agencies across the country, these officers' families, and their communities.

While resources to improve officer safety are being stretched locally and nationally, BJA's Bulletproof Vest Partnership (BVP) Program has provided approximately $30 million each year to law enforcement agencies across the nation to assist them in purchasing body armor for their officers. Through the BVP Program, state, local and tribal governments are reimbursed up to 50 percent of the cost of each unit of eligible body armor purchased for law enforcement officers. In some cases, agencies may be eligible for a waiver, which allows them to be reimbursed the full cost of each unit of eligible body armor. Agencies can purchase the best protection available, meeting the needs of their officers, as long as the vests are compliant with the latest NIJ standards at the time of purchase. While this is a substantial investment for such a specific type of protective equipment, BJA actually receives more applications for the program than it has funds to distribute.

Unfortunately, research and data confirm what we know instinctively: that while body armor saves lives, not all officers wear their protective gear. Research has shown that nearly all agencies report supplying law enforcement officers with body armor, but "only about half of

[1] As of June 9, 2011.

these agencies (59 percent) indicated that they require their officers to wear body armor at least some of the time. Less than half of the agencies that mandate that body armor be worn have a written policy on this issue, making enforcement of the policy more complex."[2]

With the high demand for vests annually, BJA is committed to ensuring that taxpayer funds dedicated to the BVP Program are being used wisely, making sure that vests purchased with these funds are actually being worn by officers and protecting lives. To accomplish this, beginning this year, the Department established a requirement that all agencies applying for funding through the BVP Program have a written, mandatory wear policy in place for all uniformed officers. The policy helps ensure accountability in the use of taxpayer resources while providing flexibility to local officials to grant certain exceptions to the policy as these local officials best know their agency and community needs. In developing the new policy, BJA collaborated with national law enforcement and labor groups.[3] Further, both the International Association of Chiefs of Police Executive Board and the Federal Bureau of Investigation's (FBI) Law Enforcement Executive Development Associations have endorsed the mandatory wear policy by passing a resolution in support of the requirement.

Because of this new requirement, the BVP Program and our commitment to officer safety is stronger than ever. Since January 1, 2011, more than 20 officers have been saved because they were wearing a protective vest when assaulted. Of those saves, nine vests were purchased with assistance from the BVP Program, a priceless return on the investment of taxpayer dollars and a blessing for the families and co-workers of the officers.

In October 2010, Attorney General Eric Holder announced a new initiative, called VALOR, (Preventing Violence Against Law Enforcement Officers and Ensuring Officer Resilience and Survivability), which is administered by BJA. VALOR is designed to prevent violence against law enforcement officers and ensure officer resilience and survivability following violent encounters during the course of their duties. VALOR responds to the precipitous increase in ambush-style assaults that have taken the lives of many law enforcement officers in recent months. BJA hosted the first of the trainings this year, and the President has included $3.5 million in funding in the FY 2012 budget request to expand this effort nationwide as quickly as possible.

BJA is honored to administer the Public Safety Officer Benefits (PSOB) Program to assist the families of our nation's public safety officers who are killed or catastrophically injured while serving their communities. The PSOB Program is a unique partnership effort between the U.S. Department of Justice; local, state, tribal, and federal public safety agencies; and national organizations. It provides death and education benefits to survivors of fallen law enforcement officers, firefighters, and other first responders, and it also provides disability benefits to officers who are catastrophically injured in the line of duty. The PSOB Office reviews nearly 700

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[2]Bruce Taylor et al, 2009, *The BJA/PERF Body Armor National Survey: Protecting the Nation's Law Enforcement Officers. Phase II Final Report. August 9, 2009*, Washington, DC: Police Executive Research Forum. www.bja.gov/pdf/PERF_BodyArmor.pdf

[3] It is important to note, this requirement is purposefully restricted to uniformed officers and provides the flexibility needed for agency leaders to determine what exceptions, if any, are needed for certain types of uniformed assignments, climate conditions, medical exceptions, etc.

claims submitted each year on behalf of America's fallen and injured public safety heroes and their loved ones. In 2010 alone, more than $65 million in PSOB benefits assisted the families of public safety officers killed or catastrophically injured while serving their communities.

Information Sharing

Strong information sharing is also an important component to supporting and strengthening partnerships with law enforcement agencies nationwide. BJA's Justice Information Sharing (JIS) program supports grants to replicate innovative and cost effective implementation of state, local, and tribal justice information systems. This includes supporting information sharing in small or rural law enforcement and criminal justice agencies. BJA's JIS Team leads the nation's training and technical assistance subject matter experts to maximize results from justice information sharing. BJA also supports the Regional Information Sharing Systems, or RISS, which provides a secure network for sharing law enforcement information among federal, state, local, and tribal law enforcement agencies, while maintaining local control over the data. BJA has provided approximately $412.3 million in funding for RISS over the past ten years. The funding provides investigative, intelligence analysis, and forensic support, investigative equipment loan program, criminal activity bulletins and publications, and training and technical assistance for state, local, and tribal law enforcement. Additionally, RISS enables its over 8,800 agency members and their employees to search and have access to a number of RISS databases, resources, and access to over 40 additional databases provided by member agencies. Understanding the importance of RISS from the field, BJA will continue to work with our law enforcement partners to support RISS.

Every day, law enforcement officers at all levels of government—federal, state, local, and tribal—observe suspicious behaviors or receive such reports from concerned civilians, private security companies, and other government agencies. In today's policing, "connecting the dots" of suspicious activity before an incident occurs has become an integral and imperative part of the job for our law enforcement professionals, from the officer on the street to supporting fusion center analysts.

BJA's Nationwide Suspicious Activity Reporting Initiative (NSI), working in close partnership with local law enforcement agencies, the FBI, the Department of Homeland Security (DHS), and national law enforcement associations, creates a national capacity for gathering, documenting, processing, analyzing, and sharing Suspicious Activity Reports (SARs), helping to ensure that law enforcement agencies across the nation can better "connect the dots" and share this information with fusion centers and Joint Terrorism Task Forces to prevent acts of terrorism and other crimes. BJA is working to expand NSI to support development and implementation of a national SAR system to assist law enforcement agencies to identify and prevent potential acts of terrorism. A critical aspect of this has been to ensure privacy, civil rights, and civil liberties protections are foundational and essential elements to the initiative. To date, NSI has provided SAR front line officer training to 42,455 state, local and tribal law enforcement officers, and 3,846 federal law enforcement officers. Law enforcement here in Delaware, particularly the Delaware State Police, has been very helpful in shaping this effort for other law enforcement agencies across the United States. We are grateful for their leadership and guidance through this remarkable partnership.

In addition to the NSI, and as part of the Department's effort to support national information-sharing initiatives, BJA has also actively partnered with DHS to support the National Network of Fusion Centers. This network consists of 72 fusion centers, including the Delaware Intelligence and Analysis Center. These centers serve as the focal points within the state and local environment for the receipt, analysis, gathering, and sharing of threat-related information between the federal government and state, local, tribal, territorial and private sector partners. Through a partnership with DHS, BJA has also supported the delivery of over 300 technical assistance deliveries since 2007 for fusion centers across the country. This program – the Fusion Process Technical Assistance Program - has been recognized as a model approach for interagency support to fusion centers. The Delaware Intelligence and Analysis Center participated in one of these trainings and were highlighted for their best practices to the other fusion centers.

Evidence-Based and Innovative Programs

Within BJA, we have worked to strengthen and implement evidence-based approaches and data-driven solutions into our business processes. BJA's Smart Policing Initiative (SPI) is just one example. SPI seeks to build on the concepts of offender-based and place-based policing or "hotspot" policing by replicating evidence-based practices or encouraging new, unique solutions to public safety problems and criminogenic circumstances. BJA works closely with law enforcement agencies to develop tactics and strategies that are effective, efficient, and economical, as measured by reduced crime. Currently, SPI is a collaborative consortium composed of BJA, CNA, and sixteen local law enforcement agencies that are either testing new solutions or modifying previously identified interventions for serious crime problems in their jurisdictions. The 16 agencies are attacking a wide range of problems such as juvenile prescription drug abuse; street and commercial robberies; persistent, localized gun violence; and, neighborhoods plagued by chronic burglaries. We hope these agencies will develop solutions that are not just effective but are feasible for the many law enforcement organizations hard-pressed by substantial budget reductions. This year, BJA is looking to expand the number of participating law enforcement agencies.

Another example of a data-driven approach is our Justice Reinvestment Initiative (JRI). In partnership with the Council of State Government's (CSG) Justice Center, and other national organizations, BJA launched its JRI in 2006. This approach is a highly strategic effort that includes extensive collection and analyses of corrections, crime, and resource data. By using this approach, state, local, and tribal policymakers are better able to assess their criminal justice systems and implement policy options that control spending on corrections and ensure that those cost savings are reinvested in other criminal justice benefits and services, such as substance abuse prevention and treatment programs to prevent crime and increase public safety.

JRI has shown significant results in communities throughout the country. For example, Vermont was among the states with the fastest growing prison populations in the nation despite being one of the least populous states in the country. To keep pace with growth in the prison population, state spending on corrections increased from four percent of state general funds in 1990 to 10 percent of state general funds in 2008. Over several years, Vermont policymakers designed numerous innovative strategies to reduce recidivism, including intensive community-

based supervision and substance abuse treatment, but no data-driven mechanism existed to guide resource decisions. Consequently, policymakers could not track the impact of these programs on recidivism rates and public safety. With bipartisan support, policymakers in Vermont decided to employ a Justice Reinvestment strategy using rigorous data analyses. In turn, the state enacted new policies and programs that, if implemented effectively, will help reduce the state's need to contract for out-of state assistance to house the prison population and avert the need to construct new prisons, yielding an estimated $54 million in net savings between FY 2009 and FY 2018. State officials reinvested $3.9 million of the savings over a two-year period to support assessment tools to identify people with substance abuse needs prior to release, to expand in-prison substance abuse treatment and vocational training, and to increase funding for a transitional housing program to include housing assistance and life skills training.

I am also pleased to report today that we recently selected the State of Delaware as a recipient of assistance through JRI, in light of the leadership and strong history of collaboration among criminal justice players here in the state.

We have also begun placing a heightened emphasis on supporting evidence-based projects under JAG. This strategy has yielded significant results. For example, Hawaii's Opportunity Probation with Enforcement (HOPE) program, originally funded as a JAG sub-grant, is a highly promising model that uses swift and certain punishment to help probationers abstain from illegal drug use and comply with other conditions of probation. Research has shown remarkable success rates among participants, including the difficult population of methamphetamine users. One study, funded by NIJ, found that HOPE probationers were 55 percent less likely to be arrested for a new crime, 72 percent less likely to use drugs, and 53 percent less likely to have their probation revoked than probationers not enrolled in the program. HOPE is a promising program that may be a solution to a revolving door for drug-involved offenders in the criminal justice system. However, to realize its full potential and to understand the longer-term impact, the program needs to be replicated and evaluated elsewhere. This year, BJA is partnering with NIJ to do just that – to replicate and evaluate the program. BJA intends to provide funds for as many as four jurisdictions interested in implementing Honest Opportunity Probation with Enforcement (HOPE), which will be implemented the same as Hawaii's Opportunity Probation with Enforcement (HOPE), and NIJ will select a research team to conduct an evaluation of the BJA demonstration sites.

Evidence Integration Initiative

Investing in evidence-based programs is a priority for the President and the Attorney General. We have also been working diligently in OJP and throughout the Department to build our base of knowledge, translate that knowledge into practice, and otherwise promote scientific integrity in the work we do. When Assistant Attorney General Laurie O. Robinson first returned to OJP, she pledged to instill a focus on data-driven, evidence-based approaches to reduce crime and to restore the integrity of, and respect for, science. She launched an Evidence Integration Initiative, or E2I. This OJP-wide effort has three objectives: 1) improve the quantity and quality of evidence that we generate through research, evaluations, and statistics; 2) better integrate evidence into program and policy decisions; and 3) improve the translation of evidence into practice.

E2I is helping us expand programs that work, build solid research on innovative programs, and reform those that don't work. E2I will help criminal justice policymakers and practitioners better understand what works. We have already begun to explore strategies for packaging and sharing research about gangs and children exposed to violence and have plans to expand our activities into other areas.

As part of the E2I effort, this week OJP will launch crimesolutions.gov, which is a searchable online database of evidence-based programs covering a range of justice-related topics, including corrections; courts; crime prevention; substance abuse; juveniles; law enforcement; technology and forensics; and victims. The site will be announced to the public on Wednesday, June 22 and is a tool to understand, access and integrate scientific evidence about programs into programmatic and policy decisions. The site already includes information on more than 125 justice-related programs and assigns "evidence ratings" – effective, promising, or no effects - to indicate whether there is evidence from research that a program achieves its goals.

Science Advisory Board

To further institutionalize respect for research and science at the agency, OJP recommended the creation of a Science Advisory Board as a means of bridging the divide between research and practice in the criminal justice fields. In November 2010, the Attorney General appointed an 18-member Science Advisory Board, chaired by leading criminologist Alfred Blumstein, Ph.D., and consisting of scholars and practitioners in criminology, statistics, sociology and practitioners in the criminal and juvenile justice fields. The Science Advisory Board will help to guide the efforts of OJP in developing evidence-based policies and programs and to ensure the programs and activities are scientifically sound and pertinent to policymakers and practitioners. The Board held its inaugural meeting in January.

Conclusion

Chairman Coons and Chairman Leahy, I would like to thank you again for the opportunity to be here today and to testify at this field hearing. So much of the responsibility for crime control and prevention falls to law enforcement officers in states, cities, and neighborhoods across our country. Delaware has been a place of great opportunity to leverage partnerships and to learn from the local efforts in place and now emerging. It is vital that we create, strengthen, and support these partnerships with the federal government. As I have highlighted here today, this is much of what BJA's purpose is – to support our partners in the field working on the front lines. We look forward to continuing to work with you on these issues discussed today.

This concludes my testimony. I am pleased to answer any questions you may have.

PREPARED STATEMENT OF DREWRY FENNELL, EXECUTIVE DIRECTOR, DELAWARE CRIMINAL JUSTICE COUNCIL, WILMINGTON, DELAWARE

U.S. Senate Judiciary Committee Field Hearing
Wilmington, DE
June 20, 2011
Testimony of Drewry Nash Fennell

Senator Leahy, Senator Coons, and distinguished guests, I am Drewry Fennell, Executive Director of the Delaware Criminal Justice Council. Thank you for the opportunity to tell you how federal criminal justice spending improves public safety on the ground in our state. I'd also like to share with you the exciting work we're engaged in as part of the Bureau of Justice Assistance Justice Reinvestment Initiative.

The Delaware Criminal Justice Council, which was first formed in 1968, acts as the State Administering Agency for funding from the Office of Justice Programs. The Council was created by statute, and is comprised of twenty seven criminal justice professionals, including six cabinet secretaries, the presiding judges of all the state courts, the chiefs of major law enforcement agencies, and three community representatives. Our current chair is Lieutenant Governor Matt Denn.

Here in Delaware, our communities are safer because of the funding we receive from the Office of Justice Programs. In partnership with the federal government, we are able to insure that the Delaware's criminal justice system is fair, efficient and accountable. The federal funding we distribute has a real effect in our communities. Later today, our Council will vote to award over $4,000,000 in federal funding to state and local law enforcement, courts, corrections, victim services and community-based providers who are united in a common effort to improve public safety. After a strong strategic planning effort by the Council, we are coordinating our resources on projects that, taken together, will have a greater impact than any of them would have had as a stand-alone effort. For example, the Council prioritized funding for efforts to serve the mentally ill in the justice system and has funded a coordinated effort to help Delaware's criminal justice agencies better serve the needs of the mentally ill. Encounters between police and people with serious mental illness can be dangerous for everyone involved. Earlier this year, the Council funded mental health crisis intervention training for law enforcement, probation officers, and court personnel. As part of the same effort, federal funds support Delaware's mental health court. In addition, Delaware provides intensive services and support through its mental health courts to reduce the number of days offenders with mental illness spend in prison and psychiatric hospitals. Together, these efforts reduce recidivism, save money and improve public safety.

Building on our foundation of inter-agency cooperation and strong strategic planning, the Criminal Justice Council recently embarked on the first steps in the Justice Reinvestment Initiative, which is funded and supported by the Bureau of Justice Assistance. The Justice Reinvestment Initiative is a data-driven process designed to allocate and manage criminal justice resources in a cost-effective way to improve public safety. This initiative requires an enormous commitment from our governor, courts, legislative leaders and criminal justice authorities. To succeed, we must improve our information sharing capabilities; collect and analyze criminal justice data; develop

policies and strategies based on that data; and implement evidence-based policies to increase public safety. Participation in this initiative will allow Delaware to operate at a remarkable level of sophistication because we can draw on the technical capacity of our federal partners. The deep knowledge and experience of our partners at Bureau of Justice Assistance allows Delaware's decision-makers to move forward with confidence in the integrity and utility of the project. This is hard work, and the stakes are high. We are grateful for resources and commitment of the Bureau of Justice Assistance.

The data analysis and information sharing required by the Justice Reinvestment Initiative will augment our already robust law enforcement capacity in this area. Our goal is to provide information and analysis that will guide decision-making in all aspects of our justice system. A strong information sharing network will allow prevention, reentry, juvenile justice, corrections and the courts respond effectively to realities of crime in Delaware, and to be certain that their efforts are effective in reducing crime.

Our partnership with Bureau of Justice Assistance, built over long years of working together, means that every federal dollar spent on criminal justice in Delaware is closely monitored and evaluated. The Bureau of Justice Assistance brings more than funding to Delaware; they also bring technical expertise and knowledge of best practices. For us, as for many states, the move toward evidence-based programming is demanding, but with the commitment of our state's leaders and support from our federal partners, we are making excellent progress. We are the beginning stages of this important work and I look forward to speaking to you in the future about the fruits of our efforts.

QUESTIONS SUBMITTED BY SENATOR CHARLES GRASSLEY FOR DEPUTY DIRECTOR JAMES BURCH

Senator Grassley's Questions for Deputy Director Burch

1. In 2006, BJA funds were used to send grantees on a conference to the Gang Resistance Training and Education Conference in Palm Springs, California that took place at a first class resort and cost the Department of Justice approximately $278,000 for six people according to follow-up to questions for the record by Senator Coburn from the Senate Subcommittee on Federal Financial Management 2006-2007 posed on November 15, 2006 to DOJ. A DOJ advertisement to the grantees read, "Through funding provided by the Office of Justice Programs, Bureau of Justice Assistance, the conference registration fee is waived. You will only be responsible for expenses such as travel, lodging, and meals/incidentals. You may use G.R.E.A.T. grant funds for these other expenses."

The resort included: 90 holes of the country's best golf; 23 tennis courts (rated one of the "Top Ten U.S. Tennis Resorts"); 42 swimming pools; 52 hot tubs; 800 guest rooms; five restaurants; beautiful mountain and desert views; and a full spa which includes open air "Celestial showers" and "Death by Chocolate" full-body massages.

a. What information did the grantees learn at this conference? Was it worth the $50,000 per attendee? Are you aware of any changes made to the grant programs of the grantees who attended this conference because of the grantees' attendance?

b. Do you require BJA grantees that attend conferences to report how they used information they learned from the conference to further the purpose of their grant? If not, why not?

2. Through the stimulus package program entitled the "Training and Technical Assistance for Correctional Facilities on Tribal Lands Program", the BJA awarded almost $5 million dollars to a company named the Justice Solutions Group (JSG). This group was awarded this grant after undergoing a peer review process. To participate in the peer review process, the reviewer must sign a form indicating he or she has no conflicts of interest. Despite this requirement, one of the three peer reviewers for JSG had "significant involvement" with the Justice Solutions Group while working at DOJ. As stated in the DOJ's Inspector General's report on the incident, "The use of a peer reviewer who is not free from a conflict of interest with an applicant undermines the purpose of the peer review process as a means for an objective and independent review."

In the same report, the Inspector General sharply criticizes the bias in BJA's grant application procedure. The same company that received grants from the biased peer review received more than $7 million dollars in grants from the BJA in the past. They had done so much business with the BJA that the report states, "It appears that BJA's priority consideration, as indicated in the Recovery Act Correctional Facilities on Tribal Lands solicitation, was written specifically for JSG and it would be very difficult, if not impossible, for any other applicant of this program to meet the criteria without the support the BJA provided JSG." It went on to state of the application process, "we are concerned that the BJA may not have complied with the requirements in the Recovery Act to award grants in a fair manner. We believe that the BJA should consider strengthening internal controls to reduce the risk of the appearance of conflicts of interest or favoritism towards a particular grantee. The BJA should also consider possible

remedies or disciplinary actions that may be warranted as a result of the appearance of a conflict of interest identified in our review."

a. As stated by Nash Fennell (Director of the Delaware Criminal Justice Council) in his testimony, BJA funds are supposed to promote fairness, efficiency, and accountability. If the BJA cannot operate by these principles itself as evidenced by the biased peer review process described by the Inspector General, how can they insure these principles will be promoted by their grants and their grantees?

b. Playing favorites at any level is unacceptable. It shouldn't take an Inspector General's report to tell BJA that. How will you avoid what is at the very least an appearance of conflicts of interest in the way BJA distributes funds in the future?

c. The DOJ Inspector General recommended BJA strengthen its internal controls. What specific steps has BJA taken to strengthen its internal controls? Why have they not yet been taken? What is planned in the future to correct this?

3. Between the fiscal years of 1995 and 2001, the Byrne JAG program awarded grants for five evaluations of programs conducted by the National Institute of Justice (NIJ). Of the 5, the GAO found in a 2002 report that only 1 was conducted properly and the others "had methodological problems that raise concerns about whether the evaluations will produce definitive results."

a. What steps have been taken to ensure the studies taxpayers fund are conducted properly?

4. In 1994, the Southwest Border Prosecution Initiative (SWBPI) was established. The program allowed the U.S. Attorneys' Offices along the Southwestern Border to establish partnerships with state and county prosecutors through which states and local governments began prosecuting federally initiated drug cases resulting from the illegal importation of controlled substances at the Southwest Border. The program, originally run by the Executive Office for United States Attorneys, ran without indications of fraud and waste until 2002 – the year the BJA became involved with the program. According to a DOJ Inspector General report in 2008, 85% of expenses authorized by BJA in connection with SWBPI were unauthorized and unsupportable.

a. How can BJA guarantee that this kind of abuse is not occurring in other programs currently funded?

b. What specific lessons did BJA learn from the SWBPI program fraud that will prevent it from occurring again? How have these lessons been integrated into the regular practices of BJA?

5. According to a 2009 DOJ OIG report, many applications the BJA received were incomplete, resulting in awards to applicants who had not provided the required information. The report also noted that grantees did not provide evidence that they could "accurately track Recovery Act funds separately from other federal funds." In addition, the report notes that, although the application requires each grantee to develop performance measures and include that on its application, the Bureau of Justice Assistance (BJA) did not require that from every grantee.

a. Why were grants awarded based on incomplete information?

b. What steps have been taken to ensure grants are made based on all the information necessary to make them?

6. It is standard practice for federal agencies to require peer review when determining the merits of a grant proposal. Despite this, according to the Project on Government Oversight, in the year Fiscal Year 2007, the BJA did not peer review 13 grant applications it granted (it received 1,496 applications). While 11 were labeled as "prior Congressional earmark" or "AAG Approved National Program" in POGO's FOIA request, 2 were not explained. These grants, one to Ohio Office of Criminal Justice Services in the amount of $296,168 and one to the Fraternal Order of Police in Ohio for $603,000.

a. Why were these 2 grants not peer reviewed?

7. According to Audit of the Office of Justice Programs by the DOJ's Inspector General, approximately 1% of the Office of Justice Programs' (OJP) – BJA's parent agency – budget was spent on the "Weed and Seed" program, a program designed to prevent crime by trying to identify ("weed" out) criminals before the fact and "revitalize" the local communities by focusing on economic development in the communities ("seeding"). This program also includes a "gun reduction" initiative.

According to crimesolutions.gov, the website the BJA created for monitoring the effectiveness of criminal justice programs, the "Weed and Seed" program has been ineffective and shown "no effects" on its target population.

a. Why is the "Weed and Seed" Project still receiving funding if BJA admits that it is not effective?

b. How many other ineffective programs is BJA currently funding?

c. Does BJA have a plan in place to review and eliminate funding to ineffective programs? If not, why not?

8. BJA funded the California Victim Compensation and Government Claims Board of Sacramento, California, a program designed specifically to aid victims of September 11. This program received more than $2 million in funding. Despite the importance of its mission, BJA failed to monitor the program. According to a DOJ Inspector General's report, approximately 12.58% of the program's spending, almost $300,000, was questioned as "unsupportable and unallowable."

Allowing funds designed to aid those most affected by one of our nation's greatest tragedies to be spent questionably is inexcusable.

a. Please explain the circumstances surrounding this failure to monitor these funds and how you intend to fix these issues in the future?

b. What is the average, or estimated average, of the percentage of "unsupportable and unallowable" cost of all BJA funded programs?

9. In 2010, the Office of the Inspector General audited and reviewed BJA's Serious and Violent Offender Re-entry Program (SVORI). According to a report from DOJ's Inspector General, there were "significant design flaws" in the implementation of the programs. The report also found the BJA "did not adequately define key terms essential for determining whether program goals were met, did not require grantees to identify baseline recidivism rates needed to calculate changes in recidivism, and did not analyze performance measurement data. As a result of these design flaws, neither OJP nor the OIG could definitively determine the effectiveness of OJP's grant programs in reducing recidivism."

a. We cannot afford to fund programs whose effectiveness we cannot verify. Why should Congress continue to fund BJA programs if BJA does not adequately determine if program goals are met?

b. The same report also noted that an independent study found the SVORI program had "no significant impact" on recidivism. Why was BJA unable to measure these effects when an independent group was able to? Why are outside groups better able to track BJA program performance than BJA is?

c. The same report also made 11 recommendations to improve BJA's grant implementation process. What steps have you taken to implement these? Given the amount of money your department grants every year, why were these procedures not already in place?

d. Nearly $18 million was spent on the SVORI program. In addition to not being able to judge its results, BJA also failed to properly monitor SVORI expenses. Of the $18 million in grants, more than $5 million of it (just above 28%) was questioned by the IG, including 100% of a grant exceeding $1 million to Oakland, California. Please explain why an entire program's grant has been questioned by the DOJ Inspector General?

e. In addition to the Oakland program, more than 99% of a grant to the Delaware HHS exceeding $2 million was brought into question by the IG. According to Director Fennel's testimony, the DCJC will grant more than $4,000,000 in federal funding this year. How will you insure the money granted to Delaware will be used properly and not wind up being criticized in a future Inspector General's report?

10. Deputy Director Burke stated in his testimony that our country has experienced a "historic decline in crime." This decline was occurring throughout the decade before the Recovery Act was passed in 2009.

a. If crime rates were already declining before the massive increase in BJA grants under the Recovery Act, why should we continue to put more money into this program?

b. Please list 5 programs that your agency funded that have directly lowered violent crime rates in the cities they were implemented.

11. As part of the Recovery Act, the BJA granted $90,000 to the Wisconsin Department of Corrections to train their employees in "Motivational Interviewing." This grant was made despite the fact that BJA has itself criticized "Motivational Interviewing" programs. According to crimesolutions.gov, the website the BJA has created to monitor the effectiveness of criminal justice programs, a program entitled "Motivational Interviewing for Juvenile Substance Abuse" had "no effects" on the people it was supposed to help.

a. How can BJA make grants to a program that is similar to a program BJA criticized as having "no effects"? Why does BJA feel this program will have different results than previous "motivational interviewing" programs BJA previously criticized?

12. Crimesolutions.gov, the website the BJA created to monitor the effectiveness of criminal justice programs, rated 149 programs. Of these, 51 receive the rating of "effective." Of these 51 programs, crimesolutions.gov does not indicate a single one received a BJA grant.

a. Did any of these 51 programs labeled "effective" receive BJA funds?

b. By what criteria does BJA measure a particular program to determine if it is worth a grant?

c. Is BJA better off granting funds to programs with proven effectiveness as opposed to unproven programs?

13. Between 2005 and 2007, the Community Legal Aid Society (CLASI) in Wilmington, Delaware was granted almost $1 million dollars by the BJA. A 2010 Inspector General's report questioned more than $800,000 of the spending of the grant as "unsupportable and unallowable." It found "material weaknesses with its internal control environment, grant expenditures, monitoring of contractors, and budget management and control."

a. What steps is the BJA taking to finally bring accountability to its grant-rewarding and grant-monitoring procedures?

14. In the Questions for the Record posed to BJA Director Ellen O'Donnell following her confirmation hearing, she stated, "[T]he biggest challenge facing BJA is the severe financial crisis facing state and local governments which is leading to a reduction in funding for public safety programs nationwide." According to the DOJ Inspector General's Review of OJP's financial statements for FY 2010, OJP spent more than $1.5 billion dollars on state and local law enforcement assistance.

a. What steps is BJA taking to make its use of taxpayer dollars more efficient and more effective?

15. When asked whether she would make significant changes to staff at the BJA in her Questions for the Record following her confirmation hearing, Director O'Donnell indicated that she would evaluate whether structural changes in the BJA were necessary. In recent years, BJA has been the subject of a

number of critical DOJ Inspector General reports. As a result, it seems some changes have to be made to the way BJA does business.

a. Have significant structural changes been made at the BJA? If so, which changes have been made and why?

b. If no significant changes have been made, why have they not been made?

16. When asked what improvements she would make to the grant making procedures in her Questions for the Record following her confirmation hearing, Director O'Donnell indicated she would have to review BJA's grant-making procedures before making changes.

a. Since Director O'Donnell took over, have changes been made to grant-making and grant-reviewing procedures? Is so, what changes have been made and why? How will these changes improve the grant-making and grant-reviewing procedures?

b. If no changes have been made, why have they not been made?

c. In your opinion, what changes still need to be made to BJA's grant-making and grant-reviewing procedures to eliminate fraud, abuse, and mismanagement?

17. BJA is one of a number of agencies under the umbrella of the OJP. Other agencies include the Bureau of Justice Statistics; the National Institute of Justice; the Office of Juvenile Justice and Delinquency Prevention; the Office for Victims of Crimes; and the Office of Sex-Offender Sentencing, Monitoring, Apprehending, Registering and Tracking. This vast number of agencies has a great potential for overlap, something that must be prevented and avoided wherever possible.

a. To what extent does BJA cooperate with these other agencies? Does this cooperation include discussions on how to prevent overlap? If not, why not?

b. To what extent does BJA's mission overlap with the missions of the other agencies? What steps can BJA take to reduce overlap with these other agencies?

18. In your testimony, you stated Delaware has been chosen for specific grants, "in light of the leadership and strong history of collaboration in among criminal justice players here in the state." Federal dollars should always be spent where they are most needed.

a. If BJA funds are supposed to be used to increase cooperation and Delaware is already cooperating, are the funds better spent in a state more in need of incentive to cooperate?

b. What non-monetary incentives can the BJA provide for states to cooperate with it?

QUESTIONS SUBMITTED BY SENATOR CHARLES E. GRASSLEY FOR DIRECTOR DREWRY FENNELL

Senator Grassley's Questions to Director Fennell

1. According to the website of the Justice Reinvestment Initiative, a program you mentioned in your testimony, "Most states are taking an expensive, unsuccessful, and unsustainable approach to prison and corrections policies. Any real effort to contain spending on corrections must have as its centerpiece a plan to limit the growth of, or reduce, the prison population. Unless policymakers act, state spending on corrections is projected to continue to increase."

   a. If increased spending at the state level is failing, why is increased funding from the federal government the answer?

   b. Please list and briefly describe 5 programs that the Delaware Criminal Justice Council (DCJC) has funded through BJA grants that have had a direct effect on violent crime rates.

2. In your testimony, you stated that the funds granted by the BJA to the DCJC will be used to insure that "Delaware's criminal justice system is fair, efficient, and accountable."

   a. In what ways can Delaware's criminal justice system be made fairer? How will federal funding accomplish this?

   b. In what ways can Delaware's criminal justice system be made more efficient? How will federal funding accomplish this?

   c. In what ways will Delaware's criminal justice system be made more accountable? How will federal funding accomplish this?

   d. If Delaware's system is not already accountable enough as indicated by your testimony, why should it be entrusted with federal money to begin with?

3. There is nothing more essential to a government than accountability. The first step on the road to complete accountability is transparency. This includes appropriations of grant money.

   a. In your testimony, you stated that each federal dollar you receive will be "monitored and evaluated." What procedures do you have in place to guarantee that federal dollars are spent appropriately?

   b. How can the DCJC improve these procedures to ensure the people can find out where every dollar they send to Washington is spent?

   c. Will you pledge that at least 10% of funds you receive will be audited? If not, would you support federal audits of grant programs?

4. Federal funding is a privilege and not a right, especially in light of our massive and unsustainable national debt. In Deputy Director Burch's testimony, he stated Delaware was

chosen for its latest round of grant money, "in light of the leadership and strong history of collaboration in among criminal justice players here in the state."

a. If BJA funds are supposed to be used to increase cooperation and Delaware is already cooperating, are the funds better spent in a state more in need?

b. Why is the DCJC the most qualified organization to grant BJA funds in Delaware?

5. Federal funds should always go where they are needed most. In your testimony, you indicated DCJC will grant $4,000,000 in BJA grants in the near future but did not indicate on exactly which programs the money will be spent. Waste, fraud, and mismanagement with these funds cannot and will not be tolerated.

a. On what programs will these grants be spent? What will these programs accomplish?

b. Why are these programs worthy of federal funding? Why are they more worthy than other programs in your state seeking federal funds?

c. How will these programs make Delaware's criminal justice system more "fair, efficient, and accountable?

6. Between 2005 and 2007, the Community Legal Aid Society (CLASI) in Wilmington, Delaware was granted almost $1 million dollars by the BJA. A 2010 DOJ Inspector General's report questioned more than $800,000 of the spending of the grant as "unsupportable and unallowable." It found "material weaknesses with its internal control environment, grant expenditures, monitoring of contractors, and budget management and control." DCJC still currently funds CLASI projects despite this.

Federal funds must be monitored and spent appropriately. To do any less is a violation of public trust.

a. What steps have been taken to address the Inspector General's concerns? Have you worked with the Inspector General to resolve these findings?

b. Will any of the $4,000,000 you are about to grant go to CLASI? If so, what measures will you take to ensure federal dollars are spent appropriately.

c. What extra precautions does DCJC now undertake when funding CLASI projects? If none, why not given the negative findings of the Inspector General?

7. In 2010, the DOJ Office of the Inspector General audited and reviewed BJA's Serious and Violent Offender Re-entry Initiative (SVORI). According to a report from DOJ's Inspector General, there were "significant design flaws" in the implementation of the programs. The report also found the BJA "did not adequately define key terms essential for determining whether program goals were met, did not require grantees to identify baseline recidivism rates needed to calculate changes in recidivism, and did not analyze performance measurement data. As a result of these

design flaws, neither OJP nor the OIG could definitively determine the effectiveness of OJP's grant programs in reducing recidivism."

In that report, more than 99% of a grant to the Delaware HHS exceeding $2 million was brought into question by the Inspector General. According to your testimony, the DCJC will grant more than $4,000,000 in federal funding this year.

a. How will you insure the grant to your Delaware agency will be used properly and not wind up being criticized in a future Inspector General's report?

8. Deputy Director Burke stated in his testimony that our country has experienced a "historic decline in crime. This decline was occurring throughout the decade before the Recovery Act was passed in 2009, which granted hundreds of millions of dollars to BJA, which in turn provided increased funding to DCJC. Our precious and limited federal funds should and must be spent only where they are most needed.

a. If crime rates were already declining before the massive increase in BJA grants as part of the Recovery Act, why should we continue to put more money into programs that might not be necessary?

b. Will the violent crime rate increase if the DCJC does not grant the $4,000,000 it intends to in the near future?

RESPONSES OF DEPUTY DIRECTOR JAMES BURCH TO QUESTIONS SUBMITTED BY SENATOR GRASSLEY

Questions for James Burch
Principal Deputy Director
Bureau of Justice Assistance
Office of Justice Programs
U.S. Department of Justice

Committee on the Judiciary
United States Senate

"Building Safer Communities: The Importance of Effective Federal-Local Collaboration in Law Enforcement"
June 20, 2011

Questions from Senator Charles Grassley

1. In 2006, BJA funds were used to send grantees on a conference to the Gang Resistance Training and Education Conference in Palm Springs, California that took place at a first class resort and cost the Department of Justice approximately $278,000 for six people according to follow-up to questions for the record by Senator Coburn from the Senate Subcommittee on Federal Financial Management 2006-2007 posed on November 15, 2006 to DOJ. A DOJ advertisement to the grantees read, "Through funding provided by the Office of Justice Programs, Bureau of Justice Assistance, the conference registration fee is waived. You will only be responsible for expenses such as travel, lodging, and meals/incidentals. You may use G.R.E.A.T. grant funds for these other expenses."

The resort included: 90 holes of the country's best golf; 23 tennis courts (rated one of the "Top Ten U.S. Tennis Resorts"); 42 swimming pools; 52 hot tubs; 800 guest rooms; five restaurants; beautiful mountain and desert views; and a full spa which includes open air "Celestial showers" and "Death by Chocolate" full-body massages.

a. What information did the grantees learn at this conference? Was it worth the $50,000 per attendee? Are you aware of any changes made to the grant programs of the grantees who attended this conference because of the grantees' attendance?

b. Do you require BJA grantees that attend conferences to report how they used information they learned from the conference to further the purpose of their grant? If not, why not?

Response:

The question above refers to a November 15, 2006, response provided to Senator Tom Coburn in relation to a Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security hearing on "Conference Spending Part 2" held on September

14, 2006. The response provides information concerning a Gang Resistance Education And Training (G.R.E.A.T.) National Conference also held in 2006. To clarify, the Bureau of Justice Assistance (BJA) funds that paid for this conference supported the entire conference, which included over 600 attendees, and not only the six federal employees in attendance. Nevertheless, based on conference feedback, BJA established greater accountability for the GREAT program, including funding it through an open and competitive grant solicitation process.

More generally, the Office of Justice Programs (OJP) has made significant changes and measurable progress in ensuring increased transparency and that conferences make prudent use of taxpayer dollars. Beginning in Fiscal Year 2008, the Department of Justice (DOJ) began submitting quarterly reports to the Department's Inspector General (OIG) for each conference held by the Department for which the cost to the government was more than $20,000. Information is also submitted for each conference where more than fifty percent (50%) of attendees are DOJ employees.

2. Through the stimulus package program entitled the "Training and Technical Assistance for Correctional Facilities on Tribal Lands Program", the BJA awarded almost $5 million dollars to a company named the Justice Solutions Group (JSG). JSG was awarded this grant after undergoing a peer review process. To participate in the peer review process, the reviewer must sign a form indicating he or she has no conflicts of interest. Despite this requirement, one of the three peer reviewers for JSG had "significant involvement" with the Justice Solutions Group while working at DOJ. As stated in the DOJ's Inspector General's report on the incident, "The use of a peer reviewer who is not free from a conflict of interest with an applicant undermines the purpose of the peer review process as a means for an objective and independent review."

In the same report, the Inspector General sharply criticizes the bias in BJA's grant application procedure. The same company that received grants from the biased peer review received more than $7 million dollars in grants from the BJA in the past. They had done so much business with the BJA that the report states, "It appears that BJA's priority consideration, as indicated in the Recovery Act Correctional Facilities on Tribal Lands solicitation, was written specifically for JSG and it would be very difficult, if not impossible, for any other applicant of this program to meet the criteria without the support the BJA provided JSG." It went on to state of the application process, "we are concerned that the BJA may not have complied with the requirements in the Recovery Act to award grants in a fair manner. We believe that the BJA should consider strengthening internal controls to reduce the risk of the appearance of conflicts of interest or favoritism towards a particular grantee. The BJA should also consider possible remedies or disciplinary actions that may be warranted as a result of the appearance of a conflict of interest identified in our review."

a. As stated by Nash Fennell (Director of the Delaware Criminal Justice Council) in his testimony, BJA funds are supposed to promote fairness, efficiency, and accountability. If the BJA cannot operate by these principles itself as evidenced by

the biased peer review process described by the Inspector General, how can they insure these principles will be promoted by their grants and their grantees?

b. **Playing favorites at any level is unacceptable. It shouldn't take an Inspector General's report to tell BJA that. How will you avoid what is at the very least an appearance of conflicts of interest in the way BJA distributes funds in the future?**

c. **The DOJ Inspector General recommended BJA strengthen its internal controls. What specific steps has BJA taken to strengthen its internal controls? Why have they not yet been taken? What is planned in the future to correct this?**

Response:

The question above quotes an audit report from the Office of the Inspector General (OIG) entitled "Review of the Award Process for the Bureau of Justice Assistance Recovery Act Grant Program for Correctional Facilities on Tribal Lands, Category V," dated February 2011. As noted in OJP's response to the report, the peer reviewer in question had no direct personal or financial relationship with the Justice Solutions Group, nor was the individual engaged in either the recommendation or the selection process for this award. For more information, please see OJP's complete response in Appendix IV of the report, available at: http://www.justice.gov/oig/reports/OJP/a1118.pdf.

BJA and OJP nevertheless agree that "playing favorites," or even appearing to do so, is unacceptable. Since January 2009, OJP has made a number of improvements to the peer review process and has substantially strengthened internal controls in order to avoid even the appearance of impropriety. As described in OJP's response, OJP has implemented a new process for ensuring the accuracy and reliability of peer review data, and BJA now closely examines the composition of each peer review panel to ensure there is no potential for conflict of interest. Finally, since this report, BJA has issued clarification guidance on using internal staff as peer reviewers.

More generally, BJA and OJP have worked hard since January 2009 to improve every step in the grants management process, from developing and issuing solicitations through the closeout of grant awards. These improvements ensure that BJA and OJP's grants are administered in a fair and transparent manner, demonstrating effective stewardship of federal funds. Examples of these improvements include:

- OJP now incorporates performance measures into each grant solicitation. Working closely with grantees, BJA and OJP ensure that the most useful, accurate performance information is reported, and OJP has new performance management tools and systems to collect and analyze that data.
- All competitive discretionary applications that meet basic eligibility requirements are evaluated through a peer review process. Documentation is now required for all competitive funding recommendations and decisions, including justifying any deviations from peer review scoring.

- OJP policy now requires program offices to submit recommendations and obtain funding approval from the Assistant Attorney General for all noncompetitive discretionary awards (e.g., formula-based awards, Congressional earmarks, or continuation funding based on initial competitive awards) prior to even publishing a solicitation or announcing availability of funds.
- To help increase transparency, all award decisions are now posted on the OJP website, including the type of award, the recipient, and the award amount.
- OJP has implemented a high-risk grantee designation and management program, administered by OJP's Office of Audit, Assessment and Management (OAAM).
- OJP has enhanced systems to allow grant managers to properly document grant reviews and on-site monitoring and systematically communicate findings to grantees.
- OJP improved existing monitoring requirements to include an additional requirement of 10% of the total number of active grants to be monitored (for BJA, 5% of active grants), beyond the statutorily-required minimum of 10% of active award dollars. In FY 2010, OJP actually monitored approximately four times the award amount required.
- Wherever possible, OJP institutes OJP-wide corrective actions in response to any program-specific OIG audit recommendations.

Many of these improvements are highlighted in the OIG's recent "Semiannual Report to Congress: October 1, 2010 – March 31, 2011" as well as the "Audit of The Office of Justice Programs' Monitoring and Oversight of Recovery Act and Non-Recovery Act Grants." The reports describe many of the significant improvements in OJP's monitoring and oversight of grants and acknowledge the collaborative relationship that has developed between OJP and the OIG in addressing grant management challenges.

BJA and OJP are proud of these accomplishments, but will remain vigilant and continue to strengthen its grants management process to ensure the most efficient and effective use of taxpayer dollars possible.

3. Between the fiscal years of 1995 and 2001, the Byrne JAG program awarded grants for five evaluations of programs conducted by the National Institute of Justice (NIJ). Of the 5, the GAO found in a 2002 report that only 1 was conducted properly and the others "had methodological problems that raise concerns about whether the evaluations will produce definitive results."

a. What steps have been taken to ensure the studies taxpayers fund are conducted properly?

Response:

The March 2002 GAO report entitled, "Justice Impact Evaluations One Byrne Evaluation was Rigorous; All reviewed Violence Against Women Office Evaluations Were Problematic" discusses grants awarded between ten and sixteen years ago, well before the Byrne JAG program was created.

Nevertheless, BJA and OJP believe strongly in the development and diffusion of knowledge about what works in preventing and controlling crime. In the current challenging fiscal climate government has an even greater responsibility to utilize taxpayer dollars wisely and support programs that are either innovative or backed by evidence of effectiveness. The Administration is committed to investing in evidence-based programming, investigating promising practices and making science a priority. BJA, OJP and the Department have worked diligently to build our base of knowledge, translate that knowledge into practice, and otherwise promote scientific integrity in the work we do.

To help institutionalize research and science at the agency, OJP recommended the creation of the OJP Science Advisory Board as a means of bridging the divide between research and practice in the criminal justice fields. In November 2010, the Attorney General appointed an 18-member Science Advisory Board, chaired by leading criminologist Alfred Blumstein, Ph.D., and consisting of scholars and practitioners in the criminal and juvenile justice fields. The Board will help guide the efforts of OJP in developing evidence-based policies and programs and help ensure programs and activities are scientifically sound and relevant to policymakers and practitioners. The Board held its inaugural meeting in January and met again at the National Institute of Justice Conference in June 2011.

Additionally, OJP has undertaken an agency-wide Evidence Integration Initiative, or E2I. This effort has three objectives: 1) improve the quantity and quality of evidence generated through research, evaluations, and statistics; 2) better integrate evidence into program and policy decisions; and 3) improve the translation of evidence into practice. As part of the E2I effort, OJP recently launched CrimeSolutions.gov, which is a searchable online database of evidence-based programs covering a range of justice-related topics, including corrections; courts; crime prevention; substance abuse; juveniles; law enforcement; technology and forensics; and crime victims.

OJP's National Institute of Justice (NIJ) has also taken many steps to ensure that the studies it funds are conducted prudently and that the results have the utmost scientific and programmatic value. Many of these changes are described in the recent response to the Report of the National Research Council's "Strengthening the National Institute of Justice" (https://ncjrs.gov/pdffiles1/nij/234630.pdf). Just a few of the improvements that are being made include:

- regular program reviews of all NIJ's research programs which will hold NIJ accountable for establishing clear knowledge-building goals for each individual program and for making measurable progress toward achieving these goals;
- steps to improve record keeping and grant management; and
- steps to improve systems for tracking projects to assess whether NIJ research programs are accomplishing their intended outcomes.

4. In 1994, the Southwest Border Prosecution Initiative (SWBPI) was established. The program allowed the U.S. Attorneys' Offices along the Southwestern Border to establish partnerships with state and county prosecutors through which states and local governments began prosecuting federally initiated drug cases resulting from the illegal

importation of controlled substances at the Southwest Border. The program, originally run by the Executive Office for United States Attorneys, ran without indications of fraud and waste until 2002 – the year the BJA became involved with the program. According to a DOJ Inspector General report in 2008, 85% of expenses authorized by BJA in connection with SWBPI were unauthorized and unsupportable.

a. **How can BJA guarantee that this kind of abuse is not occurring in other programs currently funded?**

b. **What specific lessons did BJA learn from the SWBPI program fraud that will prevent it from occurring again? How have these lessons been integrated into the regular practices of BJA?**

Response:

The OIG audit report referenced above, entitled "Southwest Border Prosecution Initiative Reimbursement Program," was published in 2008 and relates to Fiscal Years 2002 through 2006. In its response to the report, OJP agreed to all 13 of the OIG's recommendations listed in the referenced OIG's report and described how OJP integrated these recommendations into the SWBPI Program available at: http://www.justice.gov/oig/reports/OJP/a0822/final.pdf. Additionally, BJA has made several other improvements to the SWBPI system, including requiring detailed reimbursement reports and working with OAAM on verifying reimbursement requests.

As described in OJP's response to your second question, BJA and OJP have worked hard to improve every step in the grants management process, from developing and issuing solicitations through the closeout of grants. These improvements help ensure the process is fair, transparent, and demonstrates effective stewardship of federal funds. In addition to the examples provided above, OJP has trained more than 600 OJP employees on detecting and preventing grant fraud since FY 2009.

5. According to a 2009 DOJ OIG report, many applications the BJA received were incomplete, resulting in awards to applicants who had not provided the required information. The report also noted that grantees did not provide evidence that they could "accurately track Recovery Act funds separately from other federal funds." In addition, the report notes that, although the application requires each grantee to develop performance measures and include that on its application, the Bureau of Justice Assistance (BJA) did not require that from every grantee.

a. **Why were grants awarded based on incomplete information?**

b. **What steps have been taken to ensure grants are made based on all the information necessary to make them?**

Response:

The American Recovery and Reinvestment Act (Recovery Act) provided for $2.7 billion to be administered by OJP. Of that, nearly $2 billion was awarded through the Edward Byrne Memorial Justice Assistance Grant (JAG) Program, a formula grant program administered in accordance with its own statute. BJA and OJP are proud to have made 3,883 grants under the Act. Under the OJP team's leadership, 99.5 percent of the funding was obligated by the end of the fiscal year, the highest rate among all federal cabinet agencies.

In addition, by September 30, 2009, and in line with the Administration's emphasis on transparency, OJP posted all grant awards on the OJP web site for the first time, listing Recovery Act and non-Recovery Act grants separately for easier tracking. In her oversight testimony before the U.S. House of Representatives Committee on Appropriations, Subcommittee on Commerce, Justice, Science and Related Agencies in February, the Acting Inspector General commented that, "Our reviews have found that, in general, the Department's grant management staff made extraordinary efforts to implement the Recovery Act programs and generally issued the Recovery Act grant funds in a timely, fair, and objective manner" This testimony is available at: http://www.justice.gov/oig/testimony/t1102.pdf.

As discussed in the questions referenced in the December 2009 OIG report, "Review of the Edward Byrne Memorial Justice Assistance Grant Program Recovery Act Formula Awards Administered by the Department of Justice's Office of Justice Programs," BJA placed special conditions on the awards to withhold funding for applicants delayed in submitting the required information. Grantees could not spend the funding until all information was submitted. The OIG agreed that the use of the special condition would ensure that any required documentation was received before the jurisdictions could use the award funds and that this was a reasonable approach to attempt to obtain information from the grantee while also meeting the Recovery Act's goal of distributing funds as quickly as possible. Finally, as described in the report, BJA has agreed that careful consideration of "required" elements in formula grant solicitations is needed. In the future, BJA will more clearly describe material as "required" and send back applications for additional information when the "required" information is not included. Because the Byrne JAG Recovery Act program involved formula awards, as opposed to competitive discretionary awards, BJA sought to balance its responsibility to process awards quickly with the need for sound financial management.

6. It is standard practice for federal agencies to require peer review when determining the merits of a grant proposal. Despite this, according to the Project on Government Oversight, in the year Fiscal Year 2007, the BJA did not peer review 13 grant applications it granted (it received 1,496 applications). While 11 were labeled as "prior Congressional earmark" or "AAG Approved National Program" in POGO's FOIA request, 2 were not explained. These grants, one to Ohio Office of Criminal Justice Services in the amount of $296,168 and one to the Fraternal Order of Police in Ohio for $603,000.

a. Why were these 2 grants not peer reviewed?

Response:

The grants discussed in the Project on Government Oversight's report, entitled "Getting Byrned by Justice: Favoritism in the Department of Justice Byrne Discretionary Grant Program" and published on June 19, 2008, were awarded four years ago. In FY 2007, in the absence of earmarks, the OJP administered its discretionary funding in two ways: 1) interested applicants could submit proposals via competitive grant solicitations; or 2) projects that were determined by OJP to have national significance were invited to apply for funds. Factors taken into consideration included: peer review comments, geographical distribution, underserved populations, department priorities, and critical juvenile justice and public safety issues.

As previously mentioned, even appearing to "play favorites" is unacceptable to BJA and OJP. As previously described in OJP's answer to your first question, a number of improvements to OJP's peer review process have been made, and the entire grants management system has been strengthened substantially.

7. According to Audit of the Office of Justice Programs by the DOJ's Inspector General, approximately 1% of the Office of Justice Programs' (OJP) – BJA's parent agency – budget was spent on the "Weed and Seed" program, a program designed to prevent crime by trying to identify ("weed" out) criminals before the fact and "revitalize" the local communities by focusing on economic development in the communities ("seeding"). This program also includes a "gun reduction" initiative.

According to crimesolutions.gov, the website the BJA created for monitoring the effectiveness of criminal justice programs, the "Weed and Seed" program has been ineffective and shown "no effects" on its target population.

a. **Why is the "Weed and Seed" Project still receiving funding if BJA admits that it is not effective?**

b. **How many other ineffective programs is BJA currently funding?**

c. **Does BJA have a plan in place to review and eliminate funding to ineffective programs? If not, why not?**

Response:

The Administration did not include funding for Weed and Seed in its Fiscal Year (FY) 2011 or 2012 Budget Request. Any remaining grants have been transferred to BJA, which will provide programmatic management and oversight until the end of the grant award period. No new funding will be provided. As previously noted, this Administration is committed to investing in promising and evidence-based programming and to making science a priority, as described in response to question three above.

8. BJA funded the California Victim Compensation and Government Claims Board of Sacramento, California, a program designed specifically to aid victims of September 11.

This program received more than $2 million in funding. Despite the importance of its mission, BJA failed to monitor the program. According to a DOJ Inspector General's report, approximately 12.58% of the program's spending, almost $300,000, was questioned as "unsupportable and unallowable."

Allowing funds designed to aid those most affected by one of our nation's greatest tragedies to be spent questionably is inexcusable.

a. **Please explain the circumstances surrounding this failure to monitor these funds and how you intend to fix these issues in the future?**

b. **What is the average, or estimated average, of the percentage of "unsupportable and unallowable" cost of all BJA funded programs?**

Response:

The grants discussed in the OIG's September 2004 report entitled "Office of Justice Programs, Office for Victims of Crime, Crime Victims Compensation for 9/11 Attack on America, Grant Awarded to California Victim Compensation and Government Claims Board, Grant Number 2003-RF-GX-0002, Sacramento, California," were awarded in December 2002, nearly nine years ago. As previously discussed, BJA and OJP have worked hard to improve every step in the grants management process, including programmatic and financial monitoring. These improvements ensure the process is fair and transparent, and also demonstrate effective stewardship of federal funds.

It should also be noted that many costs questioned in audit reports are ultimately resolved in a manner not requiring repayment by the recipient. The most common instance is where supporting documentation is unavailable at the time of the audit but is subsequently submitted and deemed justifiable in supporting the questioned costs.

In FY 2010, OJP closed 151 of the 288 open single and OIG grant audit reports. This represented the resolution of nearly 500 findings. Of the $15.9 million in questioned costs identified by the OIG, grantees submitted supportable documentation for $11.1 million and returned $3.3 million to DOJ for unallowable or unsupported costs. The remaining $1.5 million were duplicate costs addressed by DOJ grant recipients in other audit reports, or through litigation.

9. In 2010, the Office of the Inspector General audited and reviewed BJA's Serious and Violent Offender Re-entry Program (SVORI). According to a report from DOJ's Inspector General, there were "significant design flaws" in the implementation of the programs. The report also found the BJA "did not adequately define key terms essential for determining whether program goals were met, did not require grantees to identify baseline recidivism rates needed to calculate changes in recidivism, and did not analyze performance measurement data. As a result of these design flaws, neither OJP nor the OIG could definitively determine the effectiveness of OJP's grant programs in reducing recidivism."

a. We cannot afford to fund programs whose effectiveness we cannot verify. Why should Congress continue to fund BJA programs if BJA does not adequately determine if program goals are met?

b. The same report also noted that an independent study found the SVORI program had "no significant impact" on recidivism. Why was BJA unable to measure these effects when an independent group was able to? Why are outside groups better able to track BJA program performance than BJA is?

c. The same report also made 11 recommendations to improve BJA's grant implementation process. What steps have you taken to implement these? Given the amount of money your department grants every year, why were these procedures not already in place?

d. Nearly $18 million was spent on the SVORI program. In addition to not being able to judge its results, BJA also failed to properly monitor SVORI expenses. Of the $18 million in grants, more than $5 million of it (just above 28%) was questioned by the IG, including 100% of a grant exceeding $1 million to Oakland, California. Please explain why an entire program's grant has been questioned by the DOJ Inspector General?

e. In addition to the Oakland program, more than 99% of a grant to the Delaware HHS exceeding $2 million was brought into question by the IG. According to Director Fennel's testimony, the DCJC will grant more than $4,000,000 in federal funding this year. How will you insure the money granted to Delaware will be used properly and not wind up being criticized in a future Inspector General's report?

Response:

As described in the OIG Report, entitled "Office of Justice Programs' Management of Its Offender Reentry Initiatives," OJP agreed with each of the recommendations and used the report's recommendations to improve our reentry efforts, which are focused on implementing the Second Chance Act. Evaluations funded by the Department's National Institute of Justice of the Serious and Violent Offender Reentry program also showed SVORI had no significant effect on recidivism. These findings were taken into account in developing the Second Chance Act prisoner reentry programs.

As discussed above, there can be a variety of reasons that costs are questioned in audit reports that can ultimately result in a determination that the questioned costs were allowable. For example, after working with the OIG, the City of Oakland provided the supporting documentation and on May 15, 2009, the OIG closed the audit report, with none of the original "questioned costs" determined unallowable, allowing Oakland to keep these funds that were originally in question. To date, seven of the eight OIG audits of SVORI recipients that included questioned costs, totaling $3,035,700, have been closed. Most of this amount (96%) was determined to be either supported or approved by the awarding agency. More generally, as

previously noted, BJA and OJP have worked hard to improve every step in the grants management process to ensure fairness, transparency, and effective stewardship of federal funds.

Supporting effective reentry programs are a key priority for BJA, OJP and the Department. As the Attorney General has stated, "Reentry provides a major opportunity to reduce recidivism, save taxpayer dollars, and make our communities safer." In the past 20 years, state spending on corrections has grown at a faster rate than nearly any other state budget item. High rates of recidivism mean more crime, more victims and more pressure on an already overburdened criminal justice system. There is a tremendous need for reentry services across the country.

In Fiscal Years (FY) 2009 and 2010, OJP made 188 awards to states, local governments and non-profit organizations under the Second Chance Act (SCA) Prisoner Reentry Initiative. Learning from past experiences with SVORI, BJA is closely tracking grantees and NIJ is overseeing rigorous, independent evaluations in many SCA sites. NIJ is also conducting a multisite demonstration field experiment using a promising reentry model, to gain critical additional knowledge about what works to promote successful transitions from prison to the community. BJA expects that the lessons learned from SCA research and evaluation about "what works" in reentry can be applied across the country.

10. Deputy Director Burke stated in his testimony that our country has experienced a "historic decline in crime." This decline was occurring throughout the decade before the Recovery Act was passed in 2009.

a. **If crime rates were already declining before the massive increase in BJA grants under the Recovery Act, why should we continue to put more money into this program?**

b. **Please list 5 programs that your agency funded that have directly lowered violent crime rates in the cities they were implemented.**

Response:

Deputy Director James H. Burch II states that the overwhelming majority (approximately 95%) of the nation's crime is either state or local in nature. Ensuring public safety, preventing and controlling crime, ensuring justice for all Americans, and providing federal leadership to state, local, and tribal law enforcement are core to the mission of the Department of Justice, core to OJP's mission and programs, and a sound investment for our taxpayers. OJP provides leadership to federal, state, local, and tribal justice systems by disseminating state-of-the art knowledge and practices across America, and providing grants for the implementation of these crime-fighting strategies. OJP also works in partnership with the justice community to identify the most pressing crime-related challenges confronting the justice system and to provide information, training, coordination, and innovative strategies and approaches for addressing these challenges.

While overall crime rates continue to decline, many challenges remain. Many communities are experiencing spikes in specific types of crime, gang violence continues to plague many of our

neighborhoods, the continuing threat of terrorism posed by domestic and foreign extremists remains an enduring, constant challenge for our justice systems and our communities. Additionally, law enforcement agencies across the country are facing layoffs. As all levels of government are experiencing exceedingly difficult budgetary problems, we need to make sure we utilize taxpayer dollars wisely. We are investing in building stronger partnerships to support local, state, and tribal agencies, and in innovative programs and evidence-based approaches that are effective and efficient.

Five examples of programs funded by BJA that have decreased violent crime rates in cities where these programs were implemented are: the Targeting Violent Crime Initiative, Smart Policing Initiative, Project Safe Neighborhoods, Edward Byrne Memorial Justice Assistance Grant (JAG) Program, and the Drug Market Intervention Initiative. Please be aware there are many others that BJA could cite.

11. As part of the Recovery Act, the BJA granted $90,000 to the Wisconsin Department of Corrections to train their employees in "Motivational Interviewing." This grant was made despite the fact that BJA has itself criticized "Motivational Interviewing" programs. According to crimesolutions.gov, the website the BJA has created to monitor the effectiveness of criminal justice programs, a program entitled "Motivational Interviewing for Juvenile Substance Abuse" had "no effects" on the people it was supposed to help.

a. How can BJA make grants to a program that is similar to a program BJA criticized as having "no effects"? Why does BJA feel this program will have different results than previous "motivational interviewing" programs BJA previously criticized?

Response:

This grant was awarded well before the CrimeSolutions.gov site was launched to the public on June 22, 2011. Motivational Interviewing (MI) may have empirical support in preparing clients to engage in alcohol and drug treatment programs. Additionally, MI has been shown to be effective in other settings where provider-client interactions may be brief and multi-focused such as in medical consultation. Finally, according to a National Institute of Corrections study, it is considered part of correctional practice and recognized as a principle for effective interventions with offenders. The designation of "no effects" on CrimeSolutions.gov, means that there is strong evidence indicating that the particular program studied did not achieve its intended outcomes when implemented with fidelity. It does not mean that a particular technique used by the program has no value.

12. Crimesolutions.gov, the website the BJA created to monitor the effectiveness of criminal justice programs, rated 149 programs. Of these, 51 receive the rating of "effective." Of these 51 programs, crimesolutions.gov does not indicate a single one received a BJA grant.

a. Did any of these 51 programs labeled "effective" receive BJA funds?

b. By what criteria does BJA measure a particular program to determine if it is worth a grant?

c. Is BJA better off granting funds to programs with proven effectiveness as opposed to unproven programs?

Response:

CrimeSolutions.gov was developed by the OJP with support and contributions from BJA as well as other OJP bureaus and offices (NIJ, Office of Juvenile Justice and Delinquency Prevention, Office for Victims of Crime, Bureau of Justice Statistics, and the Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART) Office).

CrimeSolutions.gov uses rigorous program evaluation research to provide evidence ratings for programs in criminal justice, juvenile justice, and victim services. Programs profiled on CrimeSolutions.gov are categorized in one of three categories: effective, promising, and no effects. For each program, descriptions provide the characteristics of the program design, evaluation outcomes, evaluation methodology, evidence base, and related information. Although CrimeSolutions.gov does not include an analysis of the funding sources behind each of the programs, we can confirm that some of the programs rated as effective in CrimeSolutions.gov received BJA funding. The Queens (NY) Treatment Court is one such example.

The criteria by which BJA measures a particular program to determine if it is worth a grant are described in detail in the solicitation for applications or the request for proposals. They vary according to statutory requirements and the intent of the program.

The information included in CrimeSolutions.gov can be a very helpful resource to those that fight crime on a daily basis, but also to those who are developing new programs to address new challenges. It remains a high priority to continue to invest in innovative, "unproven" programs so that we can continue to build the body of knowledge that will allow us to stay ahead of existing and future threats. The evidence base is thin for many areas of criminal justice and there is significant need for additional program development and testing. Further, history clearly shows that the nature of criminal activity is constantly evolving. OJP will continue to build the CrimeSolutions.gov database, but CrimeSolutions.gov, along with other research and evidence, should be used to inform, and not replace, effective decision-making by policymakers.

13. Between 2005 and 2007, the Community Legal Aid Society (CLASI) in Wilmington, Delaware was granted almost $1 million dollars by the BJA. A 2010 Inspector General's report questioned more than $800,000 of the spending of the grant as "unsupportable and unallowable." It found "material weaknesses with its internal control environment, grant expenditures, monitoring of contractors, and budget management and control."

a. What steps is the BJA taking to finally bring accountability to its grant-rewarding and grant-monitoring procedures?

Response:

The grants referenced in your inquiry, from the OIG July 2010 report entitled, "Office on Violence Against Women Legal Assistance for Victims Grant Program Administered by the Community Legal Aid Society, Inc. Wilmington, Delaware," were awarded by the Office on Violence Against Women, not by BJA.

14. In the Questions for the Record posed to BJA Director Ellen O'Donnell following her confirmation hearing, she stated, "[T]he biggest challenge facing BJA is the severe financial crisis facing state and local governments which is leading to a reduction in funding for public safety programs nationwide." According to the DOJ Inspector General's Review of OJP's financial statements for FY 2010, OJP spent more than $1.5 billion dollars on state and local law enforcement assistance.

a. What steps is BJA taking to make its use of taxpayer dollars more efficient and more effective?

Response:

Denise E. O'Donnell was sworn in as the Director of the Bureau of Justice Assistance on June 6, 2011. Throughout her first month on the job, Director O'Donnell has followed and supported the strong leadership set forth by Assistant Attorney General Laurie O. Robinson, who since 2009 has aggressively pursued strict accountability of federal dollars at OJP and BJA. On March 30, Director O' Donnell stated in her confirmation hearing that she would, "consider it a priority to be a careful steward of funds that are entrusted to any agency that I would lead."

Director O'Donnell is leading efforts to reduce duplication and encourage local communities to fully utilize existing funding and technical assistance that may already be available in their community before seeking new federal assistance.

Additionally, Director O'Donnell has made improvements to more effectively gauge grantee performance. This information has allowed BJA to strategically target and provide training and technical assistance to grantees that need assistance in reaching their programmatic goals. These enhancements have also identified lessons that can be incorporated into future data collection efforts and program management activities.

15. When asked whether she would make significant changes to staff at the BJA in her Questions for the Record following her confirmation hearing, Director O'Donnell indicated that she would evaluate whether structural changes in the BJA were necessary. In recent years, BJA has been the subject of a number of critical DOJ Inspector General reports. As a result, it seems some changes have to be made to the way BJA does business.

a. Have significant structural changes been made at the BJA? If so, which changes have been made and why?

b. If no significant changes have been made, why have they not been made?

Response:

During the brief time Denise E. O'Donnell has been the Director of BJA, she has reviewed staff assignments and held numerous briefings and meetings with staff to learn about the overall operations of BJA. In addition, Director O' Donnell has become highly engaged in the development of BJA's strategic plan. This plan will dictate BJA's top priorities for the next 3 to 5 years. Once completed, the strategic plan will identify where additional staff is needed, and how current staff can be reorganized to help achieve BJA's goals. BJA aims to complete the strategic plan by December 2011, with the implementation process beginning in January 2012. OJP is also working on a comprehensive work force analysis.

16. When asked what improvements she would make to the grant making procedures in her Questions for the Record following her confirmation hearing, Director O'Donnell indicated she would have to review BJA's grant-making procedures before making changes.

a. Since Director O'Donnell took over, have changes been made to grant-making and grant-reviewing procedures? Is so, what changes have been made and why? How will these changes improve the grant-making and grant-reviewing procedures?

b. If no changes have been made, why have they not been made?

c. In your opinion, what changes still need to be made to BJA's grant-making and grant-reviewing procedures to eliminate fraud, abuse, and mismanagement?

Response:

Director Denise E. O'Donnell was sworn in as the Director of BJA on June 6, 2011. In the short time here thus far, Director O'Donnell has emphasized the importance of grant-making accountability and taken steps to ensure that BJA's grant-making process remains transparent and accountable. These steps include requiring single applications received under a competitive solicitation to be peer reviewed, reviewing accountability policies and procedures with senior managers, and requiring briefings on key grant management processes. Under Director O'Donnell's leadership, all BJA staff attended a week-long training in October 2011 that included the OIG's grant fraud training, ethics training, diversity training, and training on BJA's policies and procedures.

Director O'Donnell is currently finalizing an office-wide policies and procedures manual, which will be released to all staff for the first time in BJA history. Additionally, Director O'Donnell has conducted a review of all existing delegations of authority established in recent years within BJA to ensure sufficient and strong internal controls.

The fiscal year (FY) 2011 Continuing Resolution (CR) included a reduction of approximately $20 million to OJP's Salaries and Expenses account (S&E). This reduction resulted in the freezing of most travel for monitoring grantee progress, grantee training, and programmatic

travel. Even with OJP's current plans to enhance desk reviews and focus on local and joint site visits, BJA is concerned that these efforts are not enough to effectively and efficiently monitor its grant programs. Both the Grant Assessment Tool (GAT) and the Enhanced Programmatic Desk Review (EPDR) are strong mechanisms to assess financial and programmatic integrity and accountability of grantees; however, onsite monitoring has been proven to have the highest level of accountability. Additional funding for travel expenses is necessary in order to ensure effective monitoring and sound stewardship of BJA's grant funds.

17. BJA is one of a number of agencies under the umbrella of the OJP. Other agencies include the Bureau of Justice Statistics; the National Institute of Justice; the Office of Juvenile Justice and Delinquency Prevention; the Office for Victims of Crimes; and the Office of Sex-Offender Sentencing, Monitoring, Apprehending, Registering and Tracking. This vast number of agencies has a great potential for overlap, something that must be prevented and avoided wherever possible.

a. To what extent does BJA cooperate with these other agencies? Does this cooperation include discussions on how to prevent overlap? If not, why not?

b. To what extent does BJA's mission overlap with the missions of the other agencies? What steps can BJA take to reduce overlap with these other agencies?

Response:

BJA and OJP are focused squarely on collaboration – within OJP, the Department of Justice, and with other federal agencies – in order to increase efficiency, eliminate unnecessary duplication, and ensure the best possible use of our federal dollars. Collaboration is now a fundamental part of the operational culture of OJP and BJA – it is the rule and not the exception. Just a few examples of these efforts include:

- In January, the Attorney General convened the first meeting of the Federal Interagency Reentry Council. The council addresses short-term and long-term goals on prisoner reentry through enhanced communication, coordination, and collaboration efforts across federal agencies. OJP is leading the staff-level effort, which includes staff from 18 different federal agencies—including the Departments of Health and Human Services, Housing and Urban Development, Labor, Education, Veterans Affairs, Agriculture, Social Security Administration, and others.

- For the first time, beginning in FY 2010, all of the Department's components and leaders are working together to provide the most efficient and timely information to tribal communities.

    - In FY 2010 and FY 2011, the Department issued the Coordinated Tribal Assistance Solicitation (CTAS), which consolidates most of the Department's tribal government-specific criminal justice assistance programs administered by OJP, OVW, and COPS into one solicitation. Through CTAS, tribes can apply for funding for many of their criminal justice needs with one application. The application review and award

process is coordinated, and we have developed joint training, and technical assistance programs for Tribal grantees.

- The Tribal Law and Order Act ("TLOA") enacted in July 2010, contained amendments to multiple laws with an impact across DOJ activities in Indian Country, including a number of OJP programs. The CTAS collaborative experience readied us for statutorily-mandated coordination required for law enforcement, training, increased grants authority, and crime data analysis and reporting.
- We are partnering with other federal agencies to conduct inventories of federal resources, develop interagency memorandums of agreement, and long-term comprehensive plans to improve our performance, eliminate duplication, and identify gaps to better serve tribal governments and their communities, in consultation with tribes.

- The Department is working as a whole to coordinate and improve OJP's and BJA's grant management efforts. OJP's Deputy Associate Attorney General leads the DOJ-wide Grants Management Challenges Workgroup, comprised of grants officials from OJP, the Office of Community Oriented Policing Services, and the Office on Violence Against Women to share information and develop consistent practices and procedures in a wide variety of grant administration and management areas. In fiscal year 2010, the working group successfully implemented the DOJ-wide high-risk grantee designation program and is currently developing a DOJ-wide, online financial training tool for DOJ grantees.

18. In your testimony, you stated Delaware has been chosen for specific grants, "in light of the leadership and strong history of collaboration in among criminal justice players here in the state." Federal dollars should always be spent where they are most needed.

a. If BJA funds are supposed to be used to increase cooperation and Delaware is already cooperating, are the funds better spent in a state more in need of incentive to cooperate?

b. What non-monetary incentives can the BJA provide for states to cooperate with it?

Response:

Funding to encourage justice agencies to collaborate and work together should be differentiated from funding that takes advantage of ongoing collaboration. Specific examples that support this include BJA's Justice Reinvestment Initiative and initiatives involving Delaware's Information and Analysis Center (DIAC). In both situations, the projects funded required that the recipient have a demonstrated and ongoing capacity of collaboration in order to meet the goals of the initiative. Without this collaboration and leadership, the funding would likely not result in the intended outcomes and the project would not succeed. This approach is often reflected in authorizing statutes, such as the Second Chance Act, which requires a history of at least one year of collaboration and planning before a community can be eligible for certain Second Chance Act funding.

This approach can be distinguished from other initiatives that provide very limited funding to develop the capacity to plan and collaborate on efforts to improve justice systems. Authorized programs that provide for or allow planning grants are examples of these types of capacity-building efforts.

In addition to grant funding, BJA provides support to state, local, and tribal governments with training and technical assistance, building the capacity of jurisdictions to perform work themselves. These services include resources such as technology, peer-to-peer learning opportunities, expert assistance from other states and regions, and no-cost training programs that are delivered in-person or online. Examples include the following:

- BJA's Regional Information Sharing Systems (RISS) Program provides the RISSafe Officer Safety Deconfliction System, a no-cost electronic officer safety event deconfliction system for the Iowa Department of Public Safety.
- BJA supports Iowa's criminal intelligence fusion center, enabling it to provide peer-to-peer assistance to other fusion centers across the nation. This assistance is provide outside of the grant process and has enabled cooperation with and between many states and local agencies.
- BJA administers the VALOR Initiative, (Preventing Violence Against Law Enforcement Officers and Ensuring Officer Resilience and Survivability). In 2010, recognizing the 40 percent increase in officer line of duty deaths from 2009, Attorney General Eric Holder announced this new initiative, which is designed to prevent ambush-style assaults against law enforcement officers and ensure officer resilience and survivability following violent encounters during the course of their duties. BJA hosted the first of the trainings in FY 2011. VALOR was funded in the FY 2012 budget at $2 million.

RESPONSES OF DIRECTOR DREWRY FENNELL TO QUESTIONS SUBMITTED BY SENATOR GRASSLEY

Senator Grassley's Questions to Director Fennell

1. According to the website of the Justice Reinvestment Initiative, a program you mentioned in your testimony, "Most states are taking an expensive, unsuccessful, and unsustainable approach to prison and corrections policies. Any real effort to contain spending on corrections must have as its centerpiece a plan to limit the growth of, or reduce, the prison population. Unless policymakers act, state spending on corrections is projected to continue to increase."

a. If increased spending at the state level is failing, why is increased funding from the federal government the answer?

Briefly, federal funding serves as a catalyst for evidence-based programs that enhance public safety. Nearly 98% of Delaware's prison population will someday return to their community. State funding is primarily spent on existing state programs, leaving a need for federal funding for new programs that focus on re-entry and recidivism reduction. Federal funding, which is not allowed to supplant existing state funding allows criminal justice and corrections leaders to develop new programs while still maintaining existing supervision capacity.

b. Please list and briefly describe 5 programs that the Delaware Criminal Justice Council (DCJC) has funded through BJA grants that have had a direct effect on violent crime rates.

BJAG – Delaware State Police – Ballistic Firearms Examiner

This program has provided personnel and overtime to the DE State Police to conduct forensic ballistic examinations of firearms and munitions. The examinations matched firearms to several homicides and violent crimes and have led to clearing of upwards of 50 cases.

BJAG- New Castle County Police – Reducing Homicide and Violent Crime

This program provides funding for officer overtime to work on a joint task force with probation and parole officers to ensure that serious violent offenders comply with the conditions of their probation. This program has led to the subsequent arrest of repeat violent offenders and the recovery of dangerous weapons and illegal drugs.

BJAG- Office of Public Defender – Expansion of Mental Health Court

This program provides financial support for Psycho Forensic Evaluations for clients of the Public Defender to make sure that those clients of the criminal justice system that have mental health issues receive the proper services so they do not continue committing violent crimes in the community.

BJAG – Wilm. Police Department – Violent Crime and Gang Reduction Program

This program provides officer overtime for Delaware's largest city to provide additional police services in identified high crime neighborhoods.

BJAG – Wilm Hope Commission - HOPE Project

This program provides services to individual that are leaving incarceration and re-entering their communities. The program attempts to link individuals with the community services that they need in order to become productive members of the community and reduce their recidivism rate or the reoccurrence of violent acts.

2. In your testimony, you stated that the funds granted by the BJA to the DCJC will be used to insure that "Delaware's criminal justice system is fair, efficient, and accountable."

a. In what ways can Delaware's criminal justice system be made fairer? How will federal funding accomplish this?

Our enabling statute, 11 Del. C. Sec. 8700, states, "The Council shall continually strive for an effective system that is fair, efficient, and accountable." For example, to increase fairness in the system, federal funding helped Delaware to develop a better risk assessment instrument for use at bail hearings so that pre-trial detention is reserved for individuals that pose a risk of flight or a public safety risk to their community.

b. In what ways can Delaware's criminal justice system be made more efficient? How will federal funding accomplish this?

Federal funding can be used to develop successful new programs and track their effects. Ensuring that money is spent only on effective programs make the criminal justice system more efficient.

c. In what ways will Delaware's criminal justice system be made more accountable? How will federal funding accomplish this?

Funding through the Justice Reinvestment Initiative has allowed for a more complete and thorough study of recidivism in Delaware. Additional funding will allow Delaware to continue to study individuals at all decision points throughout the criminal justice system flow and determine what changes should be implemented, therefore holding the system more accountable.

d. If Delaware's system is not already accountable enough as indicated by your testimony, why should it be entrusted with federal money to begin with?

We strive for the highest level of accountability in every aspect of the criminal justice system, including federal funding. Based on our long-standing track record of clean state and federal audits, we are confident that we have achieved that highest standard of managing federal funding. By definition, accountability is an on-going task

in the criminal justice system, and with additional funding we will be able to provide technical assistance to our partner agencies so they may achieve the highest standards of accountability.

3. There is nothing more essential to a government than accountability. The first step on the road to complete accountability is transparency. This includes appropriations of grant money.

a. In your testimony, you stated that each federal dollar you receive will be "monitored and evaluated." What procedures do you have in place to guarantee that federal dollars are spent appropriately?

As the State Administering Agency (SAA) for the State of Delaware, the CJC has longstanding federal grant monitoring policies and procedures that have been subject to approval by the state and federal government. Our monitoring policies and procedures have allowed us to manage, monitor and report on millions of federal and state dollars over many years.

b. How can the DCJC improve these procedures to ensure the people can find out where every dollar they send to Washington is spent?

Our procedures are already robust, and we will soon provide an on-line system for interacting with sub-grantees that will add an extra layer of oversight to the process.

c. Will you pledge that at least 10% of funds you receive will be audited? If not, would you support federal audits of grant programs?

One hundred percent of our sub-grants are subject to quarterly on-site monitoring, as is the longstanding policy for the Delaware CJC.

4. Federal funding is a privilege and not a right, especially in light of our massive and unsustainable national debt. In Deputy Director Burch's testimony, he stated Delaware was chosen for its latest round of grant money, "in light of the leadership and strong history of collaboration in among criminal justice players here in the state."

a. If BJA funds are supposed to be used to increase cooperation and Delaware is already cooperating, are the funds better spent in a state more in need?

Delaware has long been a partner with the federal government, specifically with OJP and BJA. Because of our relatively small size and unified state-wide criminal justice system, Delaware is an ideal incubator for the federal government to try new innovative

programs to test for their viability, effectiveness and impact on the target population. Federal funding allows for continued cooperation between state agencies and national technical assistance providers.

b. Why is the DCJC the most qualified organization to grant BJA funds in Delaware?

As the SAA for the state of Delaware the CJC has a four decade history of effective management of federal funds that include BJA, OJJDP, VAWA, VOCA and a variety of other federal funding streams. Our long history of success in managing both federal and state funds is a matter of lengthy public record.

5. Federal funds should always go where they are needed most. In your testimony, you indicated DCJC will grant $4,000,000 in BJA grants in the near future but did not indicate on exactly which programs the money will be spent. Waste, fraud, and mismanagement with these funds cannot and will not be tolerated.

a. On what programs will these grants be spent? What will these programs accomplish?

All federal funds administered through the CJC are competitively bid per federal state and guidelines. Programs that have been selected for funding must also be submitted to the federal government for approval and reporting purposes. Once these programs are selected, funding charts and performance measures are developed and made available to the public.

b. Why are these programs worthy of federal funding? Why are they more worthy than other programs in your state seeking federal funds?

See above

c. How will these programs make Delaware's criminal justice system more "fair, efficient, and accountable?

See above

6. Between 2005 and 2007, the Community Legal Aid Society (CLASI) in Wilmington, Delaware was granted almost $1 million dollars by the BJA. A 2010 DOJ Inspector General's report questioned more than $800,000 of the spending of the grant as "unsupportable and unallowable." It found "material weaknesses with its internal control environment, grant expenditures, monitoring of contractors, and budget management and control." DCJC still currently funds CLASI projects despite this. Federal funds must be monitored and spent appropriately. To do any less is a violation of public trust.

a. What steps have been taken to address the Inspector General's concerns? Have you worked with the Inspector General to resolve these findings?

As the SAA for the State of Delaware, we agree that federal funds must be monitored and spent appropriately. The federal government provided the federal grant in question directly to CLASI as direct recipient. The CJC had no knowledge of the grant; no statutory authority to monitor the funds; and no mechanism to assist with a direct federal award. It has been our longstanding position that the federal government, specifically OJP and its departments, should provide federal funding through each state's SAA even if it is a directed award. In every state, the SAA is organizationally structured to manage federal funds more effectively than service providers, as was demonstrated in the case of CLASI.

Once the CJC was made aware of the OIG report, we took immediate steps to evaluate our existing federal grants with CLASI. At no time were any CJC funds in question. All documentation related to CJC funding was in place because of our policies and procedures for managing grants. Several meetings were conducted with CLASI leadership to discuss the OIG report. The staff of the CJC provided technical assistance to CLASI so they could successfully work through their audit questions with the OIG. The CJC provided CLASI with new procedures and forms that eventually satisfied the OIG audit findings.

b. Will any of the $4,000,000 you are about to grant go to CLASI? If so, what measures will you take to ensure federal dollars are spent appropriately.

CLASI will still receive funds from the CJC to provide legal assistance to Victims and those citizens that need help navigating the criminal justice system. CJC policies and procedures keep all of our subgrantees in compliance with state and federal audit requirements.

c. What extra precautions does DCJC now undertake when funding CLASI projects? If none, why not given the negative findings of the Inspector General?

No additional precautions are necessary when funding CLASI because existing policies and procedures maintain a high level of compliance with state and federal regulations.

7. In 2010, the DOJ Office of the Inspector General audited and reviewed BJA's Serious and Violent Offender Re-entry Initiative (SVORI). According to a report from DOJ's Inspector General, there were "significant design flaws" in the implementation of the programs. The report also found the BJA "did not adequately define key terms essential for determining whether program goals were met, did not require grantees to identify baseline recidivism rates needed to calculate changes in recidivism, and did not analyze performance measurement data. As a result of these design flaws, neither OJP nor the OIG could definitively determine the effectiveness of OJP's grant programs in reducing recidivism."

In that report, more than 99% of a grant to the Delaware HHS exceeding $2 million was brought into question by the Inspector General. According to your testimony, the DCJC will grant more than $4,000,000 in federal funding this year.

a. How will you insure the grant to your Delaware agency will be used properly and not wind up being criticized in a future Inspector General's report?

The SVORI funds were not granted to or through the CJC, but given directly to another state agency. Our policies and procedures were not used in administering these federal funds. The CJC maintains a high level of confidence when following our standard policies and procedures in the administration of federal funding and our successful historical record is a matter of public record. This is why we encourage that all federal funding to be administered through the SAA.

8. Deputy Director Burke stated in his testimony that our country has experienced a "historic decline in crime. This decline was occurring throughout the decade before the Recovery Act was passed in 2009, which granted hundreds of millions of dollars to BJA, which in turn provided increased funding to DCJC. Our precious and limited federal funds should and must be spent only where they are most needed.

a. If crime rates were already declining before the massive increase in BJA grants as part of the Recovery Act, why should we continue to put more money into programs that might not be necessary?

The CJC believes the decline in crime rates over several years is in part directly related to the federal assistance that has been provided to the states and local jurisdictions by the federal government. The implementation of successful crime reduction programs is paramount to the continued success of the CJ system to improve public safety.

b. Will the violent crime rate increase if the DCJC does not grant the $4,000,000 it intends to in the near future?

It is our belief that federal dollars are necessary to combat new and more sophisticated levels of crime. It is only with the support and assistance of the federal government that state and local jurisdictions can maintain the current reductions in crime and prepare for new challenges.

"COMBATING CRIME WITH RESTORATIVE JUSTICE," BY JAMES NOLAN AND MARK BRUNSWICK, DECEMEBER 7, 2010, WWW.DELAWAREONLINE.COM



Combating crime with restorative justice

Without community dialogue, police cannot win the battle

By JAMES NOLAN • and MARK BRUNSWICK • December 7, 2010

It is clear that the city of Wilmington is experiencing unprecedented violence. According to FBI statistics the murder rate in Wilmington has increased by 113 percent since 1985. And, according to News Journal reports there are a variety of solutions being proffered by the mayor and police chief among others. So, how will they decide on the right thing to do?

We suggest that doing the right thing requires one to first see things the right way. Buddhist monk and peace activist Thich Nhat Hanh offered an example of acting with good intentions but with the wrong view in a situation that occurred in his native Vietnam during the war. He witnessed American soldiers destroying a village and killing innocent civilians. He approached the leader of the group and begged him to stop. "Why are you doing this?" he pleaded. The soldier responded: "We are here to save you from communism." In our "war on crime," public leaders are coming dangerously close to destroying communities in order to save them from criminals.

We believe that a meaningful dialogue with community members about the right view of things would help officials know the right things to do in Wilmington. We offer the following thoughts to stimulate such a dialogue.

The police alone cannot keep people safe. When crime is on the rise we want to believe the police are able to protect us. The most recent sociological research indicates that "collective efficacy," defined as "social cohesion among residents with the expectation that they will intervene in order to prevent crime and disorder" is really what prevents crime from occurring in the first place. The police have an important role in public safety, but their efforts to control crime without community involvement are counterproductive -- even when they make big arrests or aggressively keep people from congregating on the corner.

Dialogue is an essential element of social change. Members of a society's majority demographic benefit from the existing social order and tend to support it. For those born in a minority group, and in situations that are likely to promote frustration and failure, the existing social order looks unfair so they strongly oppose it. Only through dialogue can both sides come to see their common humanity and interdependence. There is no other way to create a just world.

"Criminals" are not different from us. As human beings we all have the potential to commit crimes given the right set of circumstances. The label "criminal" is applied to some people who

commit crimes and not others. This creates an illusion that criminals are different from noncriminals in some natural way. It is true that some human beings commit crimes, but it is also human beings who lead us into unjust wars, create and maintain conditions of poverty, create barriers to progress for some groups, and pollute the environment, among many other very harmful things.

Enlightened criminal justice practice is "stewardship." Originally the word stewardship referred to those who ruled "in place of the underaged king." The residents of a community are the rightful authorities. The police and the criminal justice system as a whole should act as stewards, serving as leaders and protectors only until residents are able to do it themselves.

Restorative justice builds community. When crimes occur, victims, offenders, and whole communities suffer. Victims suffer the most direct injury, either bodily harm or the loss of property. Feelings of safety and security within a community are also disrupted when crimes happen. In addition, when people are arrested and put into prison, they lose a sense of dignity and become stigmatized for life, creating a barrier to full productive citizenship. By remaining "outsiders," many offenders continue to re-offend. Restorative justice focuses on all three components of a crime -- victims, offenders, and communities -- and has the potential to create the type of healing that builds community and provides individuals with hope for a positive future.

City officials may think the urgency of the situation in Wilmington requires unilateral, aggressive action on the part of the police. We believe this would be a mistake. Action without insight has contributed to the problems in Wilmington.

Working to see things the right way requires hard work but, if done in collaboration with the community, it promises to produce the kind of collective responses to violence that have a real chance for success.

Dr. James Nolan, a former Wilmington police officer, is an associate professor at West Virginia University who researches communities, policing and crime. Mark Brunswick is a community organizer and lobbyist working on justice system reform issues. This article is a product of their ongoing dialogue about crime in Wilmington.

See online at:
http://www.delawareonline.com/article/20101207/OPINION07/12070326/1111/OPINION10/Combating+crime+with+restorative+justice