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ONE HUNDRED EIGHTH CONGRESS

**Congress of the United States**  
**House of Representatives**

**COMMITTEE ON THE JUDICIARY**

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February 26, 2004

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The Honorable Jim Nussle  
Chairman  
House Committee on the Budget  
309 Cannon House Office Building  
Washington, DC 20515

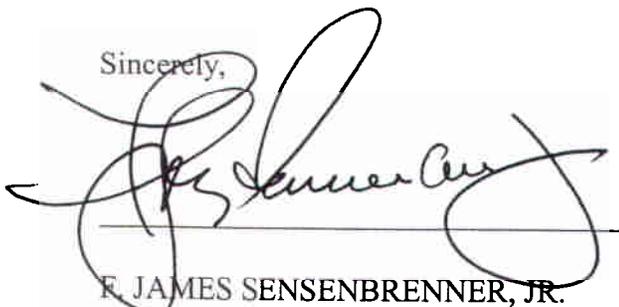
The Honorable John M. Spratt  
Ranking Member  
House Committee on the Budget  
B71 Cannon House Office Building  
Washington, DC 20515

Dear Chairman Nussle and Ranking Member Spratt:

Pursuant to section 301(d) of the Congressional Budget Act of 1974, as amended, and House Rule X, clause 4(f), we are transmitting the views and estimates of the Committee on the Judiciary with respect to the President's budget proposal for Fiscal Year (FY) 2005. These views and estimates encompass a broad range of federal programs within the jurisdiction of this Committee.

It is our hope that these views and estimates will provide valuable guidance to the House Budget Committee.

Sincerely,



F. JAMES SENSENBRENNER, JR.  
Chairman



JOHN CONYERS, JR.  
Ranking Member

# COMMITTEE ON THE JUDICIARY

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## VIEWS AND ESTIMATES FOR FISCAL YEAR 2005

### MANDATORY SPENDING

#### BANKRUPTCY JUDGESHIPS

Pending bankruptcy legislation passed by the House this Congress (H.R. 975 and S. 1920, the "Bankruptcy Abuse Prevention and Consumer Protection Act") would authorize 28 new temporary bankruptcy judgeships and extend four existing temporary judgeships. Based on a Congressional Budget Office analysis prepared last year, the mandatory costs associated with the salaries and benefits of these additional judgeships were estimated to be less than \$500,000 for fiscal year 2003, and \$23 million over the 2004-2008 period. The Committee supports increasing the number of bankruptcy judgeships to ensure the efficient disposition of bankruptcy cases.

#### NEW FEDERAL JUDGESHIPS

The Committee authorized several federal judgeships in the "21st Century Department of Justice Appropriations Authorization Act" (Public Law 107-273). In order to help the federal courts adapt to increasing caseloads, the Committee expects to consider legislation that would create 7 circuit court judgeships and 30 district court judgeships. Preliminary analysis from the Congressional Budget Office indicates that the mandatory costs associated with these new judgeships would be \$675,000 in FY 2004 and \$3.375 million over the 2004-2009 period. The Committee supports the creation of additional federal judgeships to manage increasing federal caseloads.

#### COLA – FEDERAL JUDGESHIPS

Last year, the House passed H.R. 16, "A Bill to Authorize Salary Adjustments for Justices and Judges of the United States for Fiscal Year 2003." It was signed into law on February 13, 2003, and became Public Law Number 108-6. According to the Congressional Budget Office, this measure will have an annual fiscal impact of \$10 million in Fiscal Year 2004 and approximately \$53.5 million in the 2004-2009 period. The Committee expects to support passage of similar legislation authorizing annual cost of living expenses for federal judges for Fiscal Year 2004.

#### RADIATION EXPOSURE COMPENSATION FUND

The Department of Defense Authorization Act for FY 2002 included a mandatory appropriation for the Radiation Exposure Compensation Fund for fiscal years 2002 through 2011. The appropriation for FY 2005 is \$65,000,000. There is a cap on the appropriated funds for each fiscal year. The amounts needed to make payments on approved claims is expected to exceed the cap during FY 2005. An additional \$72 million in discretionary funding has been requested by the Department of Justice to pay approved claims in FY2005. The Committee supports this request.

## **FOREIGN CLAIMS SETTLEMENT COMMISSION**

There has been little significant change in the operation of the Foreign Claims Settlement Commission. The budget request for the Foreign Claims Settlement Commission for FY 2005 is \$1,220,000. This is an increase of only \$27,000 above the appropriation for fiscal year 2004, and the Committee supports these increases.

## **PRIVATE CLAIMS LEGISLATION**

The Committee anticipates it will consider several private bills for claims against the United States. The Committee believes that \$5 million would be sufficient to meet the costs associated with private claims legislation for FY 2005. This figure, based on an analysis of private claims bills passed by recent Congresses, would be sufficient to meet the unanticipated costs associated with private claims legislation.

## **DISCRETIONARY SPENDING**

### **ANTITRUST DIVISION**

The President requests \$136.463 million for FY 2005, a \$3 million increase from the Fiscal Year enacted level of \$133.133 million. The Committee supports the important work of the Antitrust Division and supports the President's requested increase.

### **ELECTION REFORM**

There are perhaps few greater priorities for the FY 2004 budget than continued Federal support for election reform. The 2000 elections and the election contest in Florida exposed a number of deficiencies in our electoral system. The U.S. Supreme Court held in *Bush v. Gore* that these deficiencies created disparate voting circumstances that violated section 5 of the 14th Amendment to the United States Constitution. Moreover, the exposure of these deficiencies during the Florida election contest has undermined a number of Americans' faith in our democracy. To address these matters, Congress passed into law the "Help America Vote Act of 2002." This law updates voting mechanisms, allows for provisional balloting, ensures voting booths will be accessible to the disabled, authorized funds for poll-worker training and voter education, and sets up a Federal commission to oversee all of these efforts. The Committee supports the goals of this legislation and supports the funding levels authorized by the "Help America Vote Act of 2002." The Committee further supports the use of voting machines that provide the voter with an individually verifiable and auditable paper record showing how the vote will be recorded by the electronic system so that the voter can verify that the vote shown is the vote the voter intends to cast.

### **VIOLENCE AGAINST WOMEN**

The Justice Department's Violence Against Women Office (VAWO) is charged with administering the Violence Against Women Act (VAWA). VAWA plays an important role in providing grants to help state, tribal, and local governments develop and strengthen effective law enforcement and

prosecution strategies to combat violent crimes against women; develop and strengthen victim services in cases involving violent crimes against women; encourage arrest policies, distribute rural domestic violence and child abuse enforcement grants; aid victims of domestic violence, stalking, or sexual assault; reduce abuse and domestic violence; provide safe havens for children of abuse; and training for judges and court personnel. As to funding, the Administration requests \$362.5 million for VAWA, a \$21 million reduction from FY04. Because of the critical importance of VAWA, the Committee recommends that VAWA programs receive full funding.

### **DNA BACKLOG ELIMINATION**

The Committee supports the Administration's request of \$177 million to eliminate the DNA backlog and make lab improvements, including crime lab improvements. This is a \$77 million increase over the FY04 request. The Committee recognizes that effective DNA backlog reduction requires the defrayal of sample analysis costs and improvements to equipment, including automation upgrades, to increase the ability of state and local labs to effectively provide DNA analysis and improve criminal records reporting. The Committee looks forward to examining and consolidating and streamlining Department of Justice DNA database to address existing deficiencies in current programs. This request supports the efforts of the Committee to pass legislation in support of rape kit testing and elimination of DNA backlog.

### **STATE CRIMINAL ALIEN ASSISTANCE PROGRAM (SCAAP)**

The Committee recommends that the State Criminal Alien Assistance Program (SCAAP), which was reauthorized for two years in the Department of Justice Authorization Act, be funded for FY 2005. The Administration does not request any funding for this program in FY05, however, the program was originally authorized at \$650 million under the Violent Crime Control and Law Enforcement Act of 1994. The Committee supports enactment of legislation that will provide a more efficient long-term solution.

States and local governments have had to bear an immense fiscal burden as a result of incarcerating the nation's illegal aliens. Although control of our nation's borders is under the exclusive jurisdiction of the federal government, states and localities are only partially reimbursed for these expenditures. The Committee believes that this program should be adequately funded to assist states and local jurisdiction, and supports reforms to ensure the effective implementation of this program.

### **DRUG ENFORCEMENT ADMINISTRATION - DOJ**

For FY 2005, the Administration has requested a \$74 million increase (to \$1.66 billion) for the Drug Enforcement Administration. Roughly \$50 million of the increase will go to the Drug Enforcement Administration (DEA) to concentrate on its priority targeting initiative to strengthen DEA's efforts towards disrupting and dismantling priority targets. Many of which represents the "Most Wanted" drug supply and money laundering organizations believed to be primarily responsible for the nation's illicit drug supply.

The Committee believes that combating narco-terrorists and drug traffickers here and abroad must continue to be a top priority of Federal law enforcement to continue the substantial progress made

over the past decade in the struggle against the manufacturing, distribution, and use of illegal drugs. The Committee supports the requested increase and continues to review DEA's mission, priorities, strategies and activities to determine if the DEA has properly allocated its resources to combat international trafficking organizations.

The Organized Crime Drug Enforcement Task Force (OCDETF), will receive \$25 million of the increase in an effort to continue the identification and targeting of major trafficking organizations responsible for the U.S. drug supply. The Attorney General's Drug Enforcement Strategy restored the focus of the OCDETF program to facilitate coordinated investigations of major drug supply and money laundering organizations targeting the entire infrastructure of these enterprises. The Committee is concerned about the proposed transfer of OCDETF under the direction of the DEA. The Committee believes the purpose of OCDETF will be better served if it remains under the direction of the Department of Justice.

### **STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE (OJP and "COPS")**

The Committee agrees with the Administration that Office of Justice Programs funds should continue to be used to provide flexible grants for state and local law enforcement assistance and shares the concern of the Administration with regards to earmarking and a lack of evaluation of OJP and the Community Oriented Policing Services (COPS) grants.

The Committee plans to continue vigorous oversight of the operations and structure of OJP to ensure consolidation, coordination, and simplification of these programs to ensure support of effective crime prevention programs. The Committee recently favorably reported and expects to have a vote in the full House of Representatives on legislation to reauthorize and reorganize OJP and COPS grant programs to consolidate programs with similar purpose areas and decrease opportunities for earmarking.

The Committee believes increased review of the effectiveness of these programs is vital to sensible administration of the grants. GAO studies have raised concerns regarding the administration and evaluation of OJP and COPS grant programs, therefore the Committee included funding for increased evaluation and data collection activities in its DOJ reauthorization legislation in this Congress. The Committee's reauthorization bill would also provide more money overall for COPS program activities than is included in the Administration's budget. Hence, the Committee specifically recommends that funding be increased for COPS.

The Committee supports the efforts of the Office of Justice Programs in providing assistance to state and local law enforcement through a consolidation of the Byrne Grants and Local Law Enforcement Block Grants ("LLEBG") grants into a new Justice Assistance grant program. However, the Committee has concerns that the funding for some of these grant programs may be insufficient and will conduct oversight to ensure that important functions of the programs are not restricted or limited. The Committee is committed to working with the Administration to continue to provide flexible grants for state and local law enforcement.

Currently, \$340 million in grant programs listed under the Community Oriented Policing Services Office account are actually administered by the Office of Justice Programs. To provide an accurate

accounting of how these funds are used. The Administration counted these programs as OJP grant programs in its budget request. The Committee supports the accurate reporting of the use of these funds. The Committee supports the use of the remaining funds for flexible grants to state and local law enforcement crime fighting and will include such flexibility in DOJ reauthorization legislation.

### JUVENILE JUSTICE

The Juvenile Accountability Incentive Block Grant Program (JAIBG), has helped States and localities throughout the country reform and strengthen their juvenile justice system. The Committee authorized a new block grant program called the "Juvenile Accountability Block Grant (JABG)" in the "21<sup>st</sup> Century Department of Justice Reauthorization Act." The Committee notes that the "Consequences for Juvenile Offenders Act," contained in the Department of Justice Reauthorization Act, expanded the purposes of these grants and authorizes grant funding to be awarded to states through OJP to encourage states to adopt graduated sanctions programs for juvenile offenders. The Committee is concerned that the Administration did not request funding for this program and would encourage it to be fully funded.

Project ChildSafe is a Federal, state, and local partnership designed to ensure that child safety locks are made available for every handgun in America. Such locks would prevent the unauthorized use and inadvertent discharge of firearms. In the past, this program has received support from the Judiciary Committee and the Administration. The President recommends \$33.8 million for ChildSafe for FY05. These efforts along with the \$15.8 million proposed for the State and Local Gun Violence Assistance Program to focus combined state, local and federal efforts on gun violators are part of the Administration's Project Safe Neighborhood.

### STATE AND LOCAL ASSISTANCE

The Committee recently passed the Prison Rape Elimination Act. The Committee supports the Administration funding of \$8 million to encourage prosecution and collect statistics on the incidence of sexual assault in prison. The Weed and Seed program provides a comprehensive solution to weed out violent crime and seed communities with crime prevention programs. The Committee supports funding of this program at \$58.3 million. The Drug Courts and Residential Substance Abuse Treatment (RSAT) Programs provide important opportunities to reduce demand for illegal drugs. The Committee supports the increase of funds to these programs for a total of \$70 million for drug courts and \$76 million for RSAT.

The National Criminal History Improvement Program (NCHIP) provides grants to states and local governments to improve criminal history and related records which are vital to accuracy in determining eligibility to purchase firearms, work with children or hold a position of public trust. The Committee supports the increase of funding to \$58.1 million to address these concerns. The Committee supports the administration proposal for \$1 million to promote State and Local Training and Technical Assistance including training and assistance for addressing hate crime.

As our nation works to ensure security and fight terrorism, it is imperative that we focus on proper training and assistance for state and local officers on the front lines. To enhance these efforts at the state and local level, the Committee supports the Administration's proposed increase of State and

Local Anti-terrorism Training program, the Regional Information Sharing System and the Southwest Border Prosecutor Initiative.

### **UNITED STATES MARSHALS SERVICE-DOJ**

The Marshals Service has varied responsibilities. The Service administers the Asset Forfeiture Program of the Justice Department; conducts investigations involving escaped federal prisoners and other fugitives; ensures safety at judicial proceedings; assumes custody of individuals arrested by all federal agencies; houses and transports prisoners; and manages the Witness Security Program.

In support of the Department of Justice's (DOJ) strategic goal of "ensuring the fair and efficient operation of the federal justice system", the Administration has requested a 2.4 percent overall spending increase for the United States Marshals Service. This increase of \$17.3 million is the difference between the FY 2005 requested and the FY 2004 enacted budget. The Department is requesting \$8.9 million and 94 deputy positions to address increased judicial security requirements. A request for \$41.9 million and 15 criminal investigator positions has been made to address increased protection duties for witnesses and their families. Five positions and \$ 500,000 is requested for information technology security to resolve security deficiencies and vulnerabilities. DOJ requests \$1.6 million for the continuous operation of security equipment in Marshal controlled space and for maintenance to security systems. The Committee supports these spending requests and the underlying initiatives.

### **BUREAU OF ALCOHOL, TOBACCO, FIREARMS, AND EXPLOSIVES**

The Administration is requesting an increase of \$41.6 million for FY 2005 from the FY 2004 level of \$827.3 million for the Bureau of Alcohol, Tobacco, Firearms and Explosives, which has been relocated to the Department of Justice. The Bureau of Alcohol, Tobacco, Firearms and Explosives has also assumed the lead Federal role in gun trafficking and identifying suppliers of guns used in crimes. This increase includes \$16.2 million for Project Safe Neighborhoods firearm enforcement efforts.

The Bureau of Alcohol, Tobacco, Firearms and Explosives is responsible for enforcing the federal laws relating to alcohol, tobacco products, firearms and explosives, and reducing violent crime. ATF works with other law-enforcement agencies to investigate and prevent violent crimes related to firearms, explosives and arson. It provides training to state and local law enforcement in arson and explosives detection, including canine detection training.

As the regulator of explosives, the Bureau is the part of the frontline defense in terrorism. Legislation creating the Department of Homeland Security transferred this agency to the Department of Justice and gave it new powers to regulate the possession and use of explosives. Additionally, it not only regulates commerce in explosives, but also investigates explosive-related crimes. The Committee supports the request of the Administration for \$868.9 million.

### **BORDER AND TRANSPORTATION SECURITY DIRECTORATE - DHS**

The Border and Transportation Security Directorate (BTS) was established by the Homeland

Security Act of 2002, and is responsible for maintaining the security of our nation's air, land, and sea borders and transportation systems. BTS is comprised of law enforcement and other employees from the former U.S. Customs Service, the Immigration and Naturalization Service, the Transportation Security Administration, the Office of Domestic Preparedness (soon to be moved in to the Office of State and Local Coordination and Preparedness), the Federal Protective Service (FPS), and the Federal Law Enforcement Training Center (FLETC). BTS also partners with the U.S. Coast Guard to handle border security and the enforcement of immigration laws, and oversees and provides coordination of the United States Visitor and Immigrant Status Indicator Technology (US-VISIT) program. The FY 2005 budget requests \$350,371,000 for the Office of the Undersecretary of BTS and for the US-VISIT program, most of which is directed toward US-VISIT.

The goal of US-VISIT is to collect, maintain, and share information on foreign nationals in order to enhance national security, facilitate legitimate trade and travel, and ensure the integrity of our immigration system. These functions are to be performed in accordance with existing privacy laws and policies. Under the US-VISIT program, inspectors collect biographic, biometric, and travel information from aliens seeking admission to the United States, and check this information against watch lists, providing the inspectors with better and more accurate information for making admission decisions. The FY2005 budget for the Directorate seeks \$340 million for the US-VISIT program, an increase of \$12 million (3.5%) from the FY2004 level. This money will be used to further implement and maintain the program. The Committee supports the President's proposal for \$340 million for this program. The Committee will continue to aggressively oversee the implementation of this program to help ensure that it minimizes possible hindrances to international tourism to the United States while protecting the national security of the United States.

## **U.S. CUSTOMS AND BORDER PROTECTION**

U.S. Customs and Border Protection (CBP) is the federal agency principally responsible for the security of our nation's borders, both at and between the ports of entry along the border and at our nation's sea- and airports. The Committee strongly supports the missions of the CBP, both at and between the ports of entry. Inspectors and Border Patrol Agents provide a critical shield against the entry of those who would enter the United States to harm our people and our institutions. They are an essential component of our immigration-enforcement system. In addition to the agency's immigration responsibilities, its components also play a critical role in confronting the law-enforcement challenges facing our nation. CBP's Interdiction and Security (Outbound) enforces U.S. export laws and regulations to prevent weapons of mass destruction from falling into the hands of criminals or terrorists. As part of this responsibility, the agency interdicts illicit proceeds from narcotics and other criminal activities in the form of unreported and smuggled currency. The Committee agrees with the Administration that illicit currency is a critical element in the fight against terrorism, narcotics trafficking, and other criminal activities. The Border Patrol, a CBP component, has the primary responsibility for drug interdiction between the land ports-of entry. It participates in numerous interagency drug task force operations with other Federal, state and local law enforcement agencies through Operation Alliance along the southern border. All Border Patrol Agents receive Drug Enforcement Administration Title 21 cross-designated authority as part of their basic training. The purpose of this program is to increase the effectiveness of the agents patrolling the border. Additionally, CBP has the largest Federal law-enforcement canine program in the United States, with over 1,200 canine teams assigned to over 76 ports of entry and 69 Border Patrol

stations. This program is responsible for detection of narcotics, currency, explosives, chemicals, and other illegal contraband.

The FY 2005 budget seeks \$6.203 billion for CBP, an increase of \$257 million (4%) over the FY 2004 level for the agency. Included in this increase are an additional \$10 million for the purchase of unmanned aircraft for patrolling the border, and \$64,162,000 in additional funding for an expansion of the surveillance and sensor technology along the southern and northern borders. Both of these programs will serve as force multipliers for agents currently deployed along the border. In addition, CBP requests \$20,623,000 to enhance its inspections targeting systems. Enhancing those systems will allow CBP to identify high-risk travelers and goods, thus protecting our country while reducing impediments on legitimate travel and commerce. The Committee supports the request for additional funding for CBP.

### **U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT**

U.S. Immigration and Customs Enforcement (ICE) is the largest investigative arm of DHS. Comprised of several components from the former Immigration and Naturalization Service (INS), the U.S. Customs Service, the Federal Air Marshal Service (FAMS) and the Federal Protective Service (FPS), the agency combines the investigative, detention and removal, and intelligence functions of the former INS with the investigative, intelligence, and air and marine functions of the former Customs Service. The Assistant Secretary for ICE, Michael J. Garcia, has stated that “[t]hrough this reorganization, ICE is building a foundation to become one of the world's preeminent law enforcement agencies - one that provides unparalleled investigation, interdiction, and security services to the public and to our partners at DHS.” This Committee’s Subcommittee on Crime, Terrorism, and Homeland Security has held a hearing on the law enforcement authorities of the Department of Homeland Security, and agrees with the Assistant Secretary’s conclusion.

ICE is composed of six operation divisions: (1) Office of Investigations - investigating issues including immigration, human smuggling, narcotics, weapons and all other contraband smuggling; export enforcement; financial crimes, such as money laundering, commercial fraud, intellectual property rights, cybercrime, and human rights; (2) Office of Detention and Removal - promoting public safety and national security by ensuring the departure from the United States of all removable aliens through the fair enforcement of the nation’s laws; (3) Office of Air Marine Operations - protecting the nation’s borders from smuggling of people, narcotics, and other contraband, and detecting and deterring terrorist activity; (4) Office of Federal Air Marshal (FAMS) - deploying Federal Air Marshals to detect, deter, and defeat hostile acts targeting U.S. air carriers, airports, passengers, and crews; (5) Office of Federal Protective Service - policing, securing, and ensuring a safe environment in which Federal agencies can conduct business; (6) Office of Intelligence - collecting, analyzing, and disseminating strategic and tactical intelligence data for use by the operational elements of ICE and the DHS.

The FY 2005 budget requests \$4.011 billion for ICE, a \$280 million increase (7.5%) over the FY 2004 level. Of that increase, \$78 million is requested for the agency’s Investigations Program. In FY 2004, the program enhanced enforcement efforts in child pornography, immigration compliance monitoring, forced child labor, textile transshipment, and intellectual property rights. The

Committee continues to support those efforts. In the FY 2005 budget for the program, increased funds are sought for a variety of immigration-enforcement efforts.

Included in the requested increase for Investigations is an additional \$16 million sought for the Compliance Enforcement Unit. This unit processes electronic data from the Student and Exchange Visitor Program (SEVIS), the National Security Entry Exit Registration (NSEERS), and the US-VISIT Program, to detect status violators and threats to our national security. As was apparent at hearings held by the Subcommittee on Immigration, Border Security, and Claims in the last two years on the SEVIS program, the identification and removal of aliens who have violated their immigration status is a necessary facet of any alien tracking system. An essential element in achieving these results, however, is the ability to locate aliens when they have violated their status. For instance, identifying aliens who have overstayed visitor's visas is of little use for enforcement purposes if there is no way to find them. Similarly, improvements must be made in the reliability and accuracy of the records that are kept by these systems, particularly with respect to updating them as changes occur in the status of the aliens whose records are being maintained. The Compliance Enforcement Unit is an integral part of that process, and the Committee supports the increase in funding for that unit. It is the Committee's expectation, however, that its concerns about the effectiveness of these programs will be addressed and resolved.

A second area in which additional funding is sought for the Investigations Program is benefit fraud. Specifically, the budget requests a \$25 million enhancement to ICE's Salary and Expenses appropriation to replace funding previously provided from the Examinations Fee Account, funding to investigate fraud in connection with applications for immigration benefits. Rooting out fraud in the immigration benefits process is essential not only to ensuring the security and fairness of that process, but also to protecting our nation from criminals and terrorists. In the past, alien terrorists have exploited weaknesses in the American immigration system, including filing fraudulent applications for immigration benefits, and they can be expected to do so in the future. It is crucial that ICE vigorously investigate immigration fraud, and the Committee supports increased funding to continue this necessary activity. The Committee expects, however, that these investigations will be performed with due regard to applicable civil rights and that every alien will have a meaningful opportunity to challenge any finding that he or she is a criminal or a terrorist.

Another component of the Investigations Program for which additional funding is sought is the International Affairs directorate, for which an additional \$14 million is sought, including \$10 million for the Visa Security Unit. This unit implements section 428 of the Homeland Security Act, which requires an effective visa review process to secure our borders from external threats. The Committee supports this additional funding for International Affairs. The Committee expects, however, that the security measures used will be effective. In particular, it will vigorously oversee the use of name checks to ensure that they are completed as expeditiously as possible, consistent with the national security." Finally, a \$23 million increase in Investigations Program funding is sought for employer sanctions. As the GAO has told the Judiciary Committee, "[t]he availability of jobs is one of the primary magnets attracting illegal aliens to the United States." The Committee anticipates that these funds will be spent to investigate and prosecute those employers who seek to gain an economic advantage by violating our immigration laws, and supports this request. The Committee, however, is concerned by the lack of effective enforcement in this area in previous years. The Committee is supporting the request for an increase in funding with the expectation that future enforcement of employer sanctions will be effective.

The FY 2005 budget also requests an additional \$108,216,000 for ICE Detention and Removal. This amount includes an increase of \$30 million for the Institutional Removal Program, to ensure that criminal aliens are identified while serving their sentences and not released into the community, and \$50 million for the apprehension of alien absconders. The budget also requests an additional \$11 million to develop alternatives to detention. Such funds will be used to examine ways to ensure the attendance of aliens who may otherwise pose a flight risk, but no danger to society, at their immigration proceedings. Finally, the budget requests an additional \$5 million, to increase detention space and to support an increase in officer staffing by CBP and other ICE programs. The Committee supports these increases in Detention and Removal funding.

The FY 2005 budget also includes a request for an additional \$6 million and 40 FTE for the legal program. The increase in immigration enforcement by ICE and CBP has led to an increase in removal cases, resulting in a backlog of 19,200 cases in the nation's Immigration Court system. Ensuring that removal cases are completed expeditiously, and that aliens are removed or granted relief in a timely manner, is essential to the integrity of our immigration system, and the Committee supports this increase.

In addition to additional funding for ICE's immigration-enforcement programs, the FY 2005 budget also requests addition funding for other ICE missions. For the agency's Air and Marine Operations, the Administration is requesting \$375 million for FY 2005, an increase of approximately \$51 million. Enhancements requested for FY 2005 will be allocated primarily to support the Columbia Airbridge Denial Program to assist source countries in addressing the root causes of narcotics production and trafficking. The Committee supports this increased funding.

For the Federal Protective Service (FPS), the Administration is requesting \$480 million for FY 2005, an increase of approximately \$54 million for law enforcement and security for GSA owned and leased facilities. This request will support efforts to provide law enforcement and security services to DHS facilities and around 8,000 other Federal facilities outside of the current GSA owned and leased inventory. The Committee also supports this increase.

### **BUREAU OF CITIZENSHIP AND IMMIGRATION SERVICES - DHS**

The Homeland Security Act created U.S. Citizenship and Immigration Services (CIS) to administer the important immigration service functions described in the Immigration and Nationality Act, such as adjudicating naturalization and permanent residence applications. The FY 2005 budget seeks \$1.711 billion for CIS, an increase of \$58 million (3.5%) over the 2004 level. The budget includes an additional \$60 million in discretionary funds to reduce the backlog in immigration applications, which presently consists of more than six million applications, continuing the funding for the President's multi-year \$500 million initiative to ensure a six-month processing standard for all immigration benefit applications. The Committee supports this increased funding and the President's initiative. The Committee expects CIS to eliminate the backlog and to achieve the six-month processing time for new applications.

## **CIVIL DIVISION - OIL**

The Office of Immigration Litigation (OIL) in the Civil Division represents the U.S. Government in federal court in cases involving the application of the immigration and nationality laws. The budget for the Department of Justice requests an increase of \$3,500,000 for OIL to address a sharp rise in immigration cases and to defend legal challenges to the counter terrorism fight. This will add 30 additional staff, 22 of whom will be attorneys, to the office. This increase is needed to handle a mounting number of court cases seeking to overturn enforcement decisions regarding alien removal and detention, and to defend the growing number of appeals cases resulting from the Board of Immigration Appeals backlog reduction effort adequately. Without an increase in funding and staff, OIL attorneys will be unable to handle their massive workload, resulting in adverse judgments that could undermine our immigration enforcement system, and allowing the release of aliens who could pose a danger to our national security. The Committee supports this necessary increase.

## **EXECUTIVE OFFICE FOR IMMIGRATION REVIEW - DOJ**

The Executive Office for Immigration Review (EOIR) contains the corps of immigration judges, the Board of Immigration Appeals (BIA), and the Office of Chief Administrative Hearing Officer. EOIR presides over administrative immigration hearings such as removal, bond, and employer sanctions proceedings.

The budget requests \$200,463,000 for EOIR, compared to \$202,068,000 for 2005 current services, and \$189,478,000 appropriated in 2004. Included in that amount is an additional \$1,690,000 for immigration judges, attorneys, and paralegals at the Immigration Courts and the BIA. As our nation gains more control over its immigration system, and improves its border and interior immigration enforcement, EOIR anticipates that 30,000 additional new cases will be brought before the Immigration Court and 4,000 additional appeals will be filed with the BIA in FY 2005. The current 19,200 case backlog in the Immigration Court further suggests that the trial level is understaffed. The proposed increases will be offset by a reduction in EOIR Headquarters staffing of 25 positions, resulting in a savings of \$2,893,000. The Committee, however, does not expect these reductions to have a negative impact on the ability of the BIA to perform its appellate functions. If it should become apparent that additional staff or more Board members are necessary, the Committee expects EOIR to act accordingly. The Committee supports the increases for additional adjudications personnel in the FY 2005 budget.

## **THE OFFICE OF DOMESTIC PREPAREDNESS - SUPPORTING FIRST RESPONDERS**

The Committee supports robust funding for state and local first responders. First responders are the most likely to confront a terrorist attack before any Federal official. Since 2001, the Administration and Congress has provided \$16 billion for state and local first responders needs. For FY 2005, the

President's budget includes \$3.6 billion for the Office of Domestic Preparedness in the Department of Homeland Security to provide first responder training and assistance. This is a decrease from the \$4.4 billion appropriated in FY 2004.

The Committee understands the limitation of resources and supports the Administration's efforts to consolidate the management of first responder grants under ODP. The Committee, however, rejects and will oppose the Administration's attempt to increase funding for "high-threat" urban areas at the expense of rural areas. The Committee opposes the Administration's proposal to eliminate the base formula authorized under the USA PATRIOT Act.

As Congressional Quarterly reported on February 11, 2004, many on the Senate Homeland Security Appropriation's Committee share these concerns and objections. The article explains that "the budget also would give Ridge more flexibility to distribute the money based on the threat of terrorism, rather than following strict grant formulas that ensure every state gets a minimum amount of money. That did not please senators from small states." The article quotes Senator Leahy: "It would result in millions in funding for police and fire departments being cut," said Patrick J. Leahy, D-Vt. He said cuts would mean a "crippling blow for terrorism preparedness" in rural areas."

The Committee agrees with these concerns and believes that it is the terrorist threat that is flexible and will shift to what ever targets are not supported or protected. The strength of our the Nation's homeland security is only as strong as our weakest link. Terrorists will only target those weak links. Chairwoman Collins of the Senate Governmental Affairs Committee echos these views. At a February 9, 2004 hearing before that Committee, she stated "... while our urban areas are receiving unprecedented federal assistance, the concerns and vulnerabilities of our small cities, small towns and small states must not be overlooked. Perhaps more than any other area, this one gets shortchanged in the Administration's budget."

Thus, a base formula for each state in addition to a threat formula is the best means of protection. For instance, prior to the 1996 bombing of the Alfred Murrah Federal Building in Oklahoma City, Oklahoma, that city would not have been considered a high-threat area. While an act of domestic terrorism, this demonstrates that terrorist threats affect every state. This Committee will work with its Senate and House counterparts to ensure that the Nation's homeland security policy protects all America.

## **OFFICE OF GOVERNMENT ETHICS**

The Office of Government Ethics (OGE) is responsible for providing the overall direction of executive branch policies designed to prevent conflicts of interest and to ensure high ethical standards. For FY 2004, OGE was granted \$10.7 million in budget authority, an increase of approximately 1 % over the FY 2003 level of \$10.6 million. For FY 2005, OGE is requesting an increase of \$500,000 to \$11.2 million, an increase of approximately 4.7 % over the FY 2004 level. The Committee recommends that OGE be adequately funded to fulfill its important functions.

## **COMMUNITY RELATIONS SERVICE-DOJ**

The Community Relations Service (CRS) was established under Title X of the Civil Rights Act of 1964. Since 1964, CRS has traditionally been responsible for the Prevention and Conciliation of Community Disputes program, which provides conciliation and mediation assistance to communities with the goal of achieving peaceful and voluntary resolution of racial and ethnic conflict. For FY 2004, CRS was granted \$9.53 million in budget authority, a less than 1 % increase over the FY 2003 level of \$9.47 million. In addition, the FY 2004 appropriations language contained a provision permitting the Attorney General to make additional funding of up to \$1 million available to CRS, as may be necessary when "emergent circumstances require additional funding for conflict prevention and resolution activities," from other Department of Justice Appropriations. CRS is requesting \$9.8 million for FY 2005, which is a 3 % increase of \$.3 million over the FY 2004 appropriation. The Committee recommends that CRS be adequately funded to fulfill its important functions.

## **UNITED STATES COMMISSION ON CIVIL RIGHTS**

The United States Commission on Civil Rights was created to serve as a bipartisan, fact-finding agency. For FY 2004, the Commission was appropriated \$9.1 million, level funding from FY 2003 level. The Commission is requesting level funding of \$9.1 million for FY 2005. The Committee is currently examining recent actions and expenditures of the Commission and reserves judgement on the proposed budget.

## **CIVIL RIGHTS DIVISION-DOJ**

The Civil Rights Division of the Department of Justice is the primary institution within the Federal government responsible for enforcing Federal statutes prohibiting discrimination on the basis of race, sex, disability, religion, and national origin. The Division enforces Federal laws prohibiting discrimination in education, employment, credit, housing, public accommodations, voting, and certain federally funded and conducted programs. The Division has eleven sections: Appellate, Coordination and Review, Criminal, Disability Rights, Educational Opportunities, Employment Litigation, Housing and Civil Enforcement, Office of Special Counsel for Immigration Related Unfair Employment Practices, Special Litigation, Voting, and Administrative Management. For FY 2004, the Division was appropriated \$108.8 million, an increase of 3.5 % over the FY 2003 level of \$105.1 million. For FY 2005, the Civil Rights Division is requesting \$109.1 million, which is a 3 % increase over the FY 2004 appropriation. The Committee recommends that funding levels for the Civil Rights Division be maintained at a level that permits it to carry out its critical mission of guaranteeing equality under the law.

## **LAW ENFORCEMENT TRAINING**

The Committee is concerned that various Departments of the Federal Government are providing similar training to Federal, state and local, and international law enforcement and that there seems to be little or no coordination, consultation or standardization of the training. This could lead to duplication or worse inconsistency. The following are just a few examples.

- Department of Justice - the FBI Academy and ICTAPP

The Department of Justice provides training for Federal, state and local, and international law enforcement in various areas. For instance, the Federal Bureau of Investigation provides training to three main groups. Law enforcement representatives of municipal, county, state, federal, military, and foreign law enforcement agencies attend the FBI National Academy and other specialized conference programs. The DOJ International Criminal Investigative Training Assistance Program (ICITAP), created in 1986, to assist in the training police forces in Latin America. Since then ICITAP's activities have expanded to assist in the development of police forces in the context of international peacekeeping operations and to enhance capabilities of existing police forces in emerging democracies.

- Department of Homeland Security - Federal Law Enforcement Training Center

The Federal Law Enforcement Training Center (FLETC) was transferred from the Department of Treasury to the Department of Homeland Security in the Homeland Security Act of 2002. FLETC was established in 1970 to provide an interagency law enforcement training program to train Federal, state, local, and foreign law enforcement entities. FLETC's training curriculum closely resembles that provided by the Federal Bureau of Investigation. FLETC currently operates four training sites in the U.S. for multi-agency use. FLETC plans to serve three major client groups. It currently serves more than 75 Federal agencies having law enforcement responsibilities; it also provides training and technical assistance to State and local law enforcement entities. Additionally, FLETC provides "formal training courses and practical exercise applications related to International law enforcement training, in the interest of combating global crime and protecting U.S. interests abroad." The budget request \$157 million, which is a \$60 million increase of FY 2003 levels.

- Department of State - International Law Enforcement Academies.

ILEA are supposed to provide high-quality training and technical assistance, support institution building and enforcement capability and foster relationships between U.S. law enforcement agencies and their counterparts in each region. According to the State Department web page, as of February 10, 2004:

The Secretary of State, the Attorney General and the Secretary of the Treasury established the ILEA Policy Board comprised of senior representatives from their respective organizations. Department of Homeland Security, as a new charter member, will also have senior representation on the Policy Board. The Policy Board's primary goal is to monitor and provide guidance and oversight (operational guidance is provided by the ILEA Interagency Steering Group) for the ILEA training program to ensure that it is consistent with foreign policy and law enforcement goals. Policy Board members are also responsible for approving and appointing the ILEA Director and Deputy Director and other officials as deemed necessary.

The FBI is the lead agency for ILEA Budapest, DEA for Bangkok and FLETC for Gaborone. The Roswell academy is administered by State working with a consortium of universities.

The Committee agrees that law enforcement training should be standardized, but that this standardization should be under the supervision and in consultation with the Attorney General. These above programs are just a few of the training programs provided by various Departments. The Committee is particularly concerned with FLETC's involvement in international training. This Committee is conducting extensive oversight of international training in conjunction with the Committee on International Relations and has visited various ILEAS. International law enforcement training is not carried out just to train foreign police forces. There is an inherent goal of building relationships between U.S. law enforcement officers and their foreign counterparts. This cooperation assists in the War on Terrorism as well as U.S. efforts to battle transnational threats, such as Narco-terrorism and trafficking of human beings. The Committee is concerned that because FLETC is not an operational agency it may not be able to maximize this collateral benefit to improve the relationship between U.S. law enforcement officers overseas and foreign law enforcement officers.

### **EFFORTS AGAINST CORPORATE FRAUD**

The President's Budget is requesting \$1.45 million in new spending for investigators, prosecutors, and financial analysts in efforts to fight corporate fraud. The Administration is requesting \$1.2 million of the \$1.45 million for the Federal Bureau of Investigation to fund immediate development and improve existing coordination with other agencies. These funds will also be used to improve training for agents and financial analysts for corporate fraud investigations. The Administration is also requesting \$236,000 in new spending for the criminal division to respond to an increase in securities/investment fraud criminal referrals.

On July 30, 2002, the President signed into law H.R. 3763. This bill incorporated all the tougher penalties that were contained in Chairman Sensenbrenner's bill, H.R. 5118, the "Corporate Fraud Accountability Act of 2002." Under these penalty provisions, corporate criminals are going to do real time----real long time. The law increased the penalties for mail and wire fraud from the current 5 years to 20 years and created a new "securities fraud" section that carries a maximum penalty of 25 years. It also strengthened laws that criminalize document shredding and other forms of obstruction of justice and provides a maximum penalty of 20 years for such violation. The legislation punished top corporate executives that certify the financial statements of the company knowing that they are false by subjecting them to fines of up to \$5 million and 20 years in prison. Additionally, the law contains the House language that made it a crime for someone to knowingly retaliate against a whistleblower and provides a criminal penalty of up to 10 years for such an offense. Under this provision, the Court may order unlimited restitution in order to make the victim whole, and, unlike in a civil proceeding where a trial attorney would be waiting to take one-third of the award for themselves, the victim will receive 100 percent of the restitution. The restitution order will be non-dischargeable in a bankruptcy proceeding and whoever fails to make such payments will be subject to contempt of court charges. The Committee supports this new funding and the FBI's efforts enforce these new authorities.

### **FEDERAL BUREAU OF INVESTIGATION - DOJ**

The FBI's top priority as the lead agency within the Justice Department for combating terrorism, mirrors the Department's and the Administration's priority of preventing, investigating and prosecuting terrorist activities against the United States. The FY 2005 strengthens counterterrorism

and counterintelligence capabilities. The Administration proposes an 11.4 percent overall increase in new spending of \$529 million for fiscal year 2005 to \$5.2 billion. The new spending is the difference between the FY 2005 request and the FY 2004 enacted appropriations.

The new spending increases provide for a total position increase of 948 and a workyear increase of 2,702. The Department of Justice has set out four strategic goals. Three of these goals are advanced by the new spending by program improvements at the FBI. The Strategic Goals are: 1) Prevent Terrorism and Promote the Nations Security; 2) Enforce Federal Laws and Represent the Rights and Interests of the American People; 3) Assist State, Local, and Tribal Efforts to Prevent or Reduce Crime and violence.

Program improvements that address the goal of terrorism prevention and enhanced national security include 151 positions, 75 workyears and \$13.4 million dollars for the Office of Intelligence. This office will coordinate all FBI Field Office requests for information from the FBI operational divisions and the Intelligence Community. The Office will also ensure that all disparate intelligence that is collected and analyzed is appropriately disseminated. The Committee believes that this is a needed improvement as the FBI strives to enhance its intelligence capabilities in light of severe criticism about shortfalls in both analytical and sharing capabilities.

The FBI requests 159 positions, 79 workyears, and \$24.7 million for its Computer Intrusion Program and Cyber Intelligence and Action Program to aggressively pursue computer intrusion matters, especially where such intrusions relate to terrorism and foreign intelligence operations. The Committee believes that enhancements in this area are vital to keep pace with increasing technological sophistication on the part of criminals and terrorists and reflects the reality of a critical infrastructure that is likely vulnerable to computer intrusions or other cyber attacks.

The FBI has requested 86 positions, 43 workyears, and \$12.8 million dollars for the Foreign Language Program and to permanently stand up the National Virtual Translation Center (NVTC). The NVTC will ensure that translated work products derived from raw intelligence data are provided to all Intelligence Community components. The Committee supports this initiative that facilitates the enhanced sharing of intelligence. This spending increase addresses the problem of translating foreign intelligence data and the reality that the Foreign Language Program has had a workload that has doubled while staffing has increased on 55 percent.

A new program, the Terrorist Threat Information Center (TTIC) is a multi-agency entity where all foreign and domestic terrorist information will be gathered, reviewed and disseminated to appropriate authorities. The FBI is requesting \$35.5 to collocate a portion of the FBI's Counterterrorism Division with the CIA's Counterterrorist Center and the TTIC.. The Committee supports this request and plans to closely review the FBI's participation within TTIC.

Spending that addresses the strategic goal of enforcing federal laws and representing the rights and interests of the American people include a request for 8 positions, 4 workyears and \$2.4 million for responding to criminal enterprises. Six of the requested positions and just over half of the requested funding are for special agents that will support corporate fraud investigations. The FBI's investigations of corporate fraud have increased over 80 percent over the past year.

Several FBI programs relating to the protection of children seek enhancement with this budget request. The FBI requests 16 positions, 8 workyears, and \$1.8 million to increase child prostitution investigation in cities with significant child prostitution issues; 10 positions, 5 workyears, and \$1.8 million to support the Justice Department's Child Exploitation and Obscenity Section by providing resources necessary for the investigation and prosecution of producers and distributors of obscenity and child exploitative material; and \$3 million dollars in nonpersonnel funding to support current undercover operations and investigations of the Innocent Images National Initiative (IINI). This program is an intelligence-driven, proactive, multi-agency investigative initiative that combats the proliferation of child pornography/child sexual exploitation facilitated by an online computer. Last year the Committee passed and the President signed into law the PROTECT Act, a comprehensive bill to fight against the sexual exploitation of children. The Committee supports the FBI initiatives as they address significant crime problems and also facilitate interagency cooperation among law enforcement entities.

The FBI is also seeking almost \$22 million in funding for much needed renovations at the FBI Academy. The Committee also supports this initiative.

To realize the third strategic goal of assisting state, local, and tribal efforts to prevent or reduce crime or violence, the FBI is requesting 12 positions, 6 workyears, and \$16 million to expand the capabilities of the Integrated Automated Fingerprint Identification System (IAFIS) to allow the FBI to respond to ten-print, latent, and criminal history information requests from federal, state, and local law enforcement agencies. These resources will also be used to absorb the system and operational impacts of the Department of Homeland Security's deployment of IAFIS to all border stations and ports of entry. The Committee supports this request and believes this is an important initiatives that address information sharing and border security issues.

### **UNITED STATES SECRET SERVICE -DHS**

In 1865, the United States Secret Service (Secret Service) was established as a law enforcement agency to investigate counterfeiting of U.S. currency. Today, the Secret Service's investigative responsibilities now include a variety of fraud related crimes, such as financial crimes and computer crimes. Its mission was expanded beyond law enforcement investigations in 1901 after President William McKinley was assassinated. The mission of the Secret Service is now two-fold: (1) law enforcement investigations; and (2) the protection of the President and Vice President of the United States, the President's and Vice President's immediate family members, the President-elect and Vice President-elect, former first families and other governmental officials as well as visiting foreign dignitaries.

As the threat of terrorism has increased, so has the Secret Service's protective and investigative responsibilities. Under the USA Patriot Act of 2001, Congress authorized the Secret Service to establish a nationwide network of electronic crimes task forces. These electronic crimes task forces partner with federal, state, and local police departments, as well as key segments of the private sector and academic community to safeguard our critical and financial infrastructures. Thus far, the Secret Service has established thirteen task forces throughout the country. With the apparent success and recent establishment of additional electronic crimes task forces, the Committee is perplexed as to why the Secret Service has not requested additional resources for further expansion.

In addition to establishing these electronic crimes task forces, the Secret Service has also participated in a joint project with the International Association of Chiefs of Police in developing a "Best Practices" guide. As computers and related storage and communication devices proliferate in our society, so does the use of those devices in conducting criminal activities. The Best Practices guide is intended to help law enforcement personnel develop a basic understanding of key technical and legal factors regarding searching and seizing electronic storage devices and media. The Committee continues to support this partnership with federal, state, and local government and wants to ensure that the funding is sufficient to continue this sharing of knowledge.

The investigation of counterfeit currency continues to be one of the core missions of the Secret Service. The Director of the Secret Service, Ralph W. Basham, testified before this committee last week that the redesigned twenty dollar Federal Reserve Note unveiled on May 13, 2003, has already been counterfeited. The Secret Service continues to suppress counterfeit currency at home and abroad. More and more countries have adopted "dollarization", utilizing U.S. currency exclusively or alongside domestic currency. As the volume of U.S. currency increases worldwide, we can be assured that the counterfeiting of U.S. currency will increase as well. The Committee on the Judiciary supported the establishment of four foreign offices in regions where increased liaison, training and other services to foreign financial institutions and law enforcement agencies are necessary to prevent the manufacturing of counterfeit U.S. currency and financial crimes victimizing U.S. financial institutions. The President's budget recognizes that counterfeiting is a serious threat to the nation's security but does not specifically mention this issue. The Committee is concerned that the Secret Service has not requested funds to establish an overseas presence in these "dollarized" countries.

Funding for the Secret Service's investigative and protective mission has increased slightly from last year. The President's budget requests a 2 percent increase of \$26 million over FY 2004 for a total of \$1.363 billion. This increase would cover operating costs associated with the Secret Service's protective and investigative responsibilities.

### **U.S. PATENT AND TRADEMARK OFFICE**

The Committee proposes to authorize the United States Patent and Trademark Office (USPTO) to collect and spend \$1,533,407,000, subject to appropriation acts, from fee collections in FY 2005 to cover operating expenses, including the payment of retirement benefits for employees. This amount is derived from user fees paid by patent and trademark applicants or from fees for other services provided by the Office. No taxpayer funds are expected or recommended.

The Administration has requested \$1,533,407,000 for USPTO operations in FY 2005, derived from offsetting collections assessed and collected pursuant to 15 U.S.C. 1113 (trademarks) and 35 U.S.C. 41 and 376 (patents). The Administration's request also assumes that Congress will enact a new fee schedule, similar or identical to the contents of H.R. 1561, that will generate additional revenue such that the agency's program level matches its fee intake for FY 2005. The additional revenue is necessary to implement the USPTO 21<sup>st</sup> Century Strategic Business Plan, including proposed quality initiatives, E-Government initiatives, and acceleration of patent processing.

The Committee supports full-funding of the USPTO and the elimination of any incentive to use

agency revenues for non-USPTO purposes. The Committee will continue to work with the House Leadership and the Committee on Appropriations to end the practice of user-fee diversion without compromising the ability of the Committee on Appropriations to conduct oversight of USPTO activities. Enactment of H.R. 1561 in furtherance of these goals during the 108<sup>th</sup> Congress remains a Committee priority.

### **U.S. COPYRIGHT OFFICE**

The Copyright Office budget is a separate appropriation in the overall budget for the Library of Congress. The Copyright Office administers the U.S. copyright laws, provides copyright expertise to the Congress and executive branch agencies and actively promotes international protection for intellectual property created by U.S. citizens.

The Copyright Office basic appropriations request for FY2005 is \$47,022,000. Of this amount, \$26,843,406 will be offset by amounts collected through registration and other fees. The Office's work administering compulsory licenses is fully funded by deductions from royalty fees. Less the offsets, the Office is requesting a net appropriation of \$20,178,594. Sufficient funding is required in FY 2005 to allow the Office to continue to fulfill its public service responsibilities – including the implementation of its re-engineering program. In addition, the Architect of the Capitol's budget request includes \$59,200,000 for construction of a Copyright Deposit Facility at Ft. Meade, Maryland. Once developed, the Facility will allow the Copyright Office to meet its statutory requirements on the retention of copyright deposits.

### **THE FEDERAL JUDICIAL SYSTEM**

The Committee recognizes the Judiciary's essential role in providing justice to all citizens and the ever increasing workload and additional responsibilities thrust upon the Judiciary. The Committee understands that while the Judiciary has no control over the number of cases that are filed in the courts, it must handle each case filed and has no flexibility in how quickly it must handle many of these cases.

The Judiciary has requested an appropriation of \$5,234,610,000 for FY 2003. These funds, when combined with non-appropriated funds (such as fees) represent a 9.9 percent increase from the previous fiscal year. Funds should be appropriated to subsidize additional workload and inflationary cost increases for the Defender Services, Fees of Jurors and Court Security accounts (which the judiciary considers to be mandatory expenses), mail-handling systems, the Courts of Appeals, the District and Bankruptcy Courts, and Probation/Pretrial Services Offices.

The requested appropriation should allow the Judiciary to maintain the resources necessary to handle its all-time-high workload. Filings of criminal cases increased five percent, exceeding the previous high in 1932, the year prior to repeal of the 18<sup>th</sup> Amendment (prohibition). The courts now have 110,621 felons under supervised release, an increase of two percent from the preceding year; and filings in the courts of appeals increased six percent – both all-time highs.

## **EXECUTIVE OFFICE FOR UNITED STATES ATTORNEYS (EOUSA) - DOJ**

Within each of the 94 Federal districts in the 50 States, the District of Columbia, Guam, the Northern Mariana Islands, Puerto Rico and the Virgin Islands, the U.S. Attorneys are the chief law enforcement representatives of the Attorney General, enforcing Federal criminal law and handling most of the civil litigation in which the United States is involved. The Executive Office, located in Washington, D.C. at the Department of Justice, is entrusted with the task of coordinating the efforts of these U.S. Attorneys with the policies and priorities of the Attorney General and supervising and supporting their activities.

The FY 2005 budget requested by the Administration for U.S. Attorneys represents an increase of approximately \$22 million to \$1.547 billion for FY 2005 over the enacted appropriation of \$1.525 billion for FY 2004. Whereas the FY 2004 appropriation funded 10,113 permanent positions, the FY 2005 request would fund 10,262 positions. Increased expenditures would include: \$5.76 million for 66 new positions (44 attorneys) for terrorism and criminal prosecutions; \$1.405 million to hire additional paralegals to better leverage existing attorney resources, which would entail 26 new positions; \$3.019 million for 32 new positions (25 attorneys) for Project Safe Neighborhoods to reduce gun violence by prosecuting repeat firearm offenders through district specific initiatives; \$2.209 million for 24 positions (14 attorneys) for civil defensive litigation addressing urgent needs arising from the implementation of programs and initiatives to combat domestic terrorism.

The request contains the following offsets: a \$1.826 million reduction to the travel budget of the Office of Legal Education based upon utilization instead of Distance Learning Initiatives; an \$11.313 million reduction attributable to management efficiencies accomplished through reductions in legal research, use of contract employment and other non-personnel categories such as travel; addressing the 4.1 percent pay raise for federal employees contained in the FY 2004 Consolidated Appropriations Act (which exceeded the budget requested 2 percent pay raise) by offsetting the resulting \$5.037 million in annualization costs in the U.S. Attorneys account through management efficiencies on a pro-rata basis across the three decision units (Criminal, Civil and Legal Education).

The Committee fully appreciates the importance of the U.S. Attorneys as the chief law enforcement representatives of the Department of Justice and is committed to ensuring that they are given the necessary resources to fulfill their responsibilities, particularly in light of the new responsibilities associated with the war against terrorism.

## **UNITED STATES TRUSTEE PROGRAM - DOJ**

The U.S. Trustee Program is charged with supervising the administration of bankruptcy cases and trustees. Its mission is to protect and preserve the integrity of the U.S. bankruptcy system by regulating the conduct of parties, ensuring compliance with applicable laws and procedures, bringing civil actions to address bankruptcy abuse, securing the just and efficient resolution of bankruptcy cases, and identifying and prosecuting bankruptcy crimes. The Program is self-funded through user fees paid by participants in the bankruptcy system. The Program's appropriation is offset by fees it collects during the fiscal year. These monies are paid into the U.S. Trustee System Fund. Approximately 60 percent of the Program's funding is subsidized by quarterly fees paid by Chapter 11 debtors. The remaining 40 percent of its funding is derived from a portion of filing fees paid to

commence bankruptcy cases, interest earnings, and other miscellaneous revenues.

The Administration's FY 2005 request of \$174.3 million reflects an increase of approximately \$9.9 million over the FY 2004 enacted level of \$164.4 million. This increase is comprised of adjustments to base totaling \$8.4 million and program changes of \$1.5 million. The base adjustments include: \$2.4 million for compensation and benefit-related adjustments, \$2.2 million for rent, and \$3.8 million to meet base absorptions required by Appropriations Acts over the last two fiscal years.<sup>1</sup> The Program adjustments include: \$2 million for information technology/E-government improvements, and offsets totaling \$495,000 associated with absorbing a portion of the FY 2004 4.1 percent pay raise. The FY 2005 request would fund the same number of FTE positions (1,190) as FY 2004. The Committee supports the requested increase.

### **ENVIRONMENT AND NATURAL RESOURCES DIVISION (ENRD)- DOJ**

The Administration requests \$105.4 million for FY 2005, which reflects a \$29.7 increase over the \$75.75 million enacted for FY 2004. Specific increases include 18 positions (11 attorneys) and \$14 million for defending the United States in lawsuits filed by Indian Tribes for alleged mismanagement of Tribal assets by the Bureau of Indian Affairs. Potential liability for the Government may be as high as \$200 billion. Additionally, the Administration requests 8 positions (6 attorneys) and \$594,000 for Hazardous Materials Transportation, an initiative specifically relating to enforcing Federal laws that govern the transportation of hazardous materials through the air, sea, and land. Also, the Administration's request includes an increase of \$9 million for ENRD due to lease expirations.

### **OFFICE OF SOLICITOR GENERAL (OSG) - DOJ**

The Office of Solicitor General supervises and processes all appellate matters and represents the Government before the Supreme Court. For FY 2005, the Administration requests \$8.538 million, representing an increase of \$649,000 over the FY 2004 enacted appropriation. This request reflects an additional \$254,000 for increased GSA rent expenses and \$293,000 for two new attorney positions. The Committee considers the work of the OSG an important element of the role played by the Department of Justice and expects to examine whether the Administration's requested increase is sufficient to ensure the OSG's work is adequately supported.

### **LEGAL SERVICES CORPORATION**

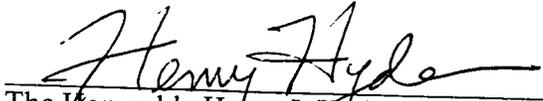
The Legal Services Corporation is a "private nonmembership corporation" established by Federal statute "for the purpose of providing financial support for legal assistance in noncriminal proceedings or matters to persons financially unable to afford legal assistance." For FY 2005, the Administration requests \$329.3 million. The budget request specifically allocates \$310.423 million for basic field programs and required independent audits; \$2.6 million for the OIG; \$13.3 million for management and administration; \$2.977 million for client self-help and information technology.

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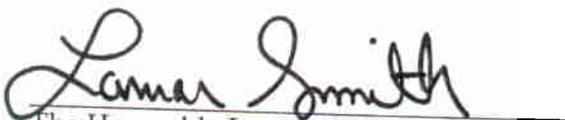
<sup>1</sup>Congress directed the U.S. Trustee Program to use carry forward balances in \$5,399,000 in FY 2003 and \$1,780,000 in FY 2004 in its base to address operational requirements. To provide a consistent amount for operation expenses, an approximate average of these amounts totaling \$3,754,000 is proposed as a one-time adjustment to the U.S. Trustee Program base.

# COMMITTEE ON THE JUDICIARY

## IEWS AND ESTIMATES FOR FISCAL YEAR 2005

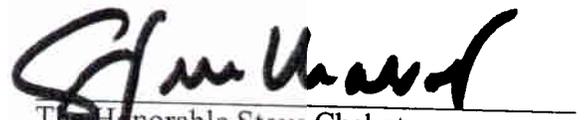
  
The Honorable Henry J. Hyde

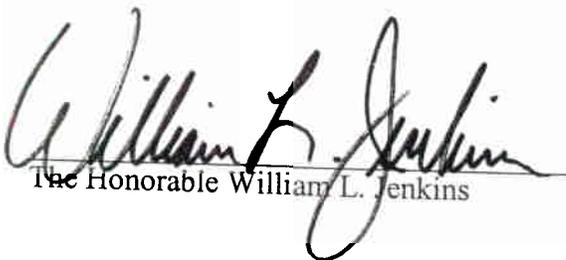
  
The Honorable Howard Coble

  
The Honorable Lamar S. Smith

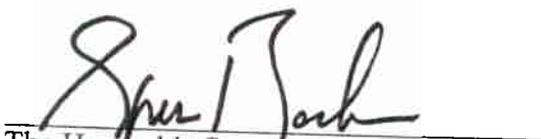
  
The Honorable Elton Gallegly  
Excepting the paragraph titled  
"The Office of Domestic Preparedness -  
Supporting First Responders"

  
The Honorable Bob Goodlatte

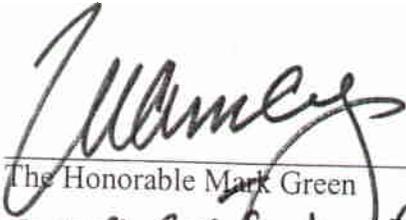
  
The Honorable Steve Chabot

  
The Honorable William L. Jenkins

  
The Honorable Chris Cannon

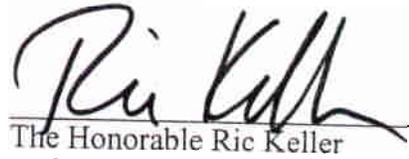
  
The Honorable Spencer Bachus

  
The Honorable John Hostettler



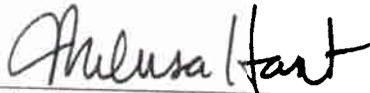
The Honorable Mark Green

I support full funding for the COPS program and other efforts to strengthen law enforcement.

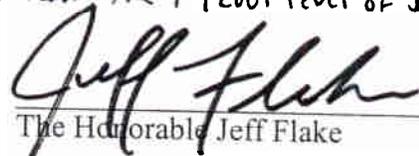


The Honorable Ric Keller

Specifically, under "State & Local Law Enforcement Assistance (USP & COPS)" section, I would like to see funding for the hiring component of the COPS program returned to at least the FY2001 level of \$408 million.

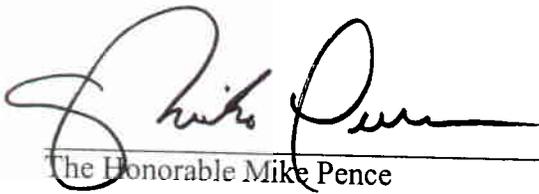


The Honorable Melissa A. Hart



The Honorable Jeff Flake

See additional Flake views and views on SCAAP



The Honorable Mike Pence



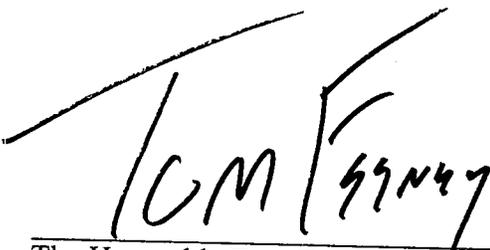
The Honorable J. Randy Forbes



The Honorable Steve King



The Honorable John R. Carter



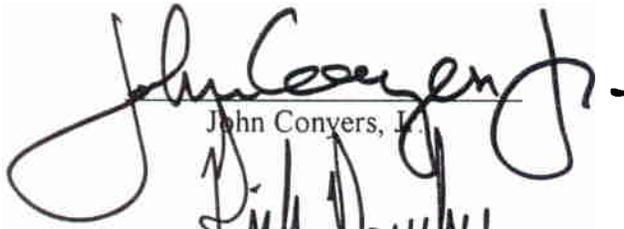
The Honorable Tom Feeny

See additional views - SCAAP

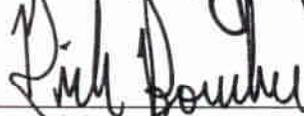


The Honorable Marsha Blackburn

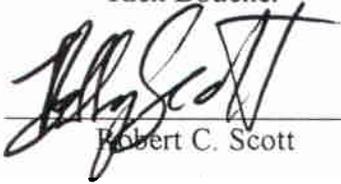
View and Estimates for FY 2005



John Conyers, Jr.



Rick Boucher

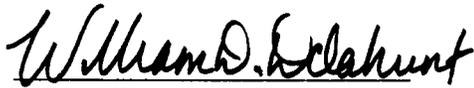


Robert C. Scott



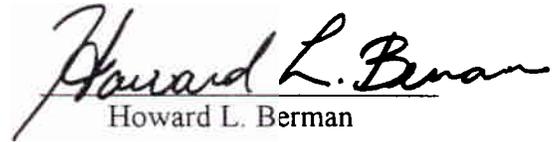
Zoe Lofgren

Maxine Waters



William D. Delahunt

Tammy Baldwin



Howard L. Berman

Jerrold Nadler



Melvin L. Watt



Sheila Jackson Lee

Martin T. Meehan

Robert Wexler

Anthony D. Weiner



Linda T. Sanchez

## ADDITIONAL VIEWS

### COMMITTEE ON THE JUDICIARY VIEWS AND ESTIMATES FOR FISCAL YEAR 2005

We oppose the section in the Committee's Views and Estimates entitled "State Criminal Alien Assistance Program (SCAAP)." We instead offer the following:

#### STATE CRIMINAL ALIEN ASSISTANCE PROGRAM (SCAAP)

The Committee recommends that the State Criminal Alien Assistance Program (SCAAP), which was reauthorized for two years in the Department of Justice Authorization Act, be funded at \$750 million in FY2005. The Administration does not request any funding for this program in FY05, however, the program is authorized for such sums as may be necessary. The program has been significantly underfunded since its inception under the Violent Crime Control and Law Enforcement Act of 1994.

State and local governments have had to bear an immense fiscal burden as a result of incarcerating criminal aliens. Although control of our nation's borders is under the exclusive jurisdiction of the federal government, states and localities are only partially reimbursed for these expenditures. Reinterpretation of the statutory language establishing the program has further reduced the ability of state and local governments to be fully reimbursed for their actual costs. The Committee believes that SCAAP should be adequately funded to assist state and local jurisdictions when the federal government fails to meet its responsibility to prevent illegal immigration.

Additional Views by Howard Berman on SCAAP

Howard L. Berman  
Howard L. Berman

Carl B. Shiff

William D. Delahunt

Jeff Flake

Melvin L. Watt

Tom / -SENEM

Jim Fly

Jim Madler

John Ganger Jr.

## COMMITTEE ON THE JUDICIARY

### ADDITIONAL VIEWS AND ESTIMATES FOR FISCAL YEAR 2005

#### FEDERAL BUREAU OF INVESTIGATION – DOJ

Since the September 11th attacks, the FBI's top priority has been to protect the American people from future terrorist attacks. To aid that effort, Congress and the administration worked together to write the USA PATRIOT Act. Under difficult circumstances, the PATRIOT Act represented our best efforts to confront the threat to our nation while balancing individual rights and liberties.

However, to protect that delicate balance, Congress needs to conduct careful oversight over how the Justice Department, FBI and other executive branch agencies exercise their new powers. Indeed, that is why many of us pushed for sunset provisions in several key areas of the PATRIOT Act.

Unfortunately, over the past two years it has become increasingly apparent that some in the administration want to impede this vital Congressional oversight. On several occasions, the Chairman and Ranking Member of this Committee have sought specific details about how the FBI has used its new powers to conduct wire taps, surveillance, data mining and "sneak and peak" searches. In our opinion, the Department and the FBI have been less than forthcoming in their responses.

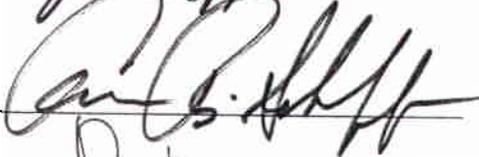
This lack of cooperation and disclosure has seeded an enormous amount of distrust among the American people. Anti-PATRIOT Act resolutions have been passed by more than 240 cities and counties across the nation, including New York City. These communities represent millions upon millions of Americans who have lost faith in the FBI's ability to exercise its new powers responsibly.

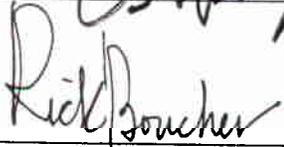
Our growing concern is further buttressed by the President's Budget request. For example, the FBI asks for a nearly \$13 million increase in the bureau's Foreign Language Program. According to an article that appeared in Congressional Quarterly on February 23, 2004, this money is needed to hire more language specialists to keep up with the "record amount" of electronic surveillance that the FBI is collecting due to statutory easements to the Foreign Intelligence Surveillance Act granted in the PATRIOT Act. We do not take issue with the requested increase. But we do take issue with the FBI conducting a "record amount" of electronic surveillance without giving Congress the information it needs to conduct effective oversight into whether new surveillance powers respect the delicate balance between security and individual rights and liberties.

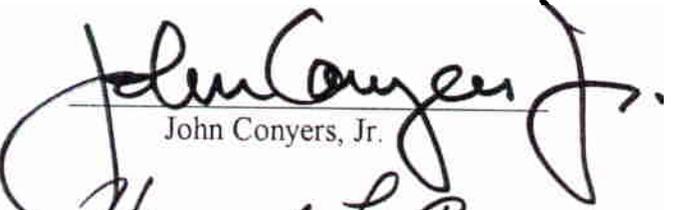
The events of September 11, 2001, are still fresh in the minds and hearts of Americans. But in our effort to prevent future attacks on our freedoms and liberties, we must not forget them. We intend to continue to push for aggressive oversight of the PATRIOT Act, be it in new budget requests, the impending debate over the sunset provisions, or in attempts by the administration to gain new powers. We must not run away from our obligations and the evolving fears over the PATRIOT Act. We must face them head on and reexamine the act with the benefit of hindsight.

Additional Views from Zoe Lofgren on  
Views and Estimate for FY 2005

  
Zoe Lofgren



  
Rick Boucher

  
John Conyers, Jr.

  
Howard L. Berman

  
Linda J. Sánchez

  
William D. Delahunt

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## **ADDITIONAL VIEWS**

### **COMMITTEE ON THE JUDICIARY VIEWS AND ESTIMATES FOR FISCAL YEAR 2005**

We oppose the section in the Committee's Views and Estimates entitled "The Office of Domestic Preparedness – Supporting First Responders." We instead offer the following:

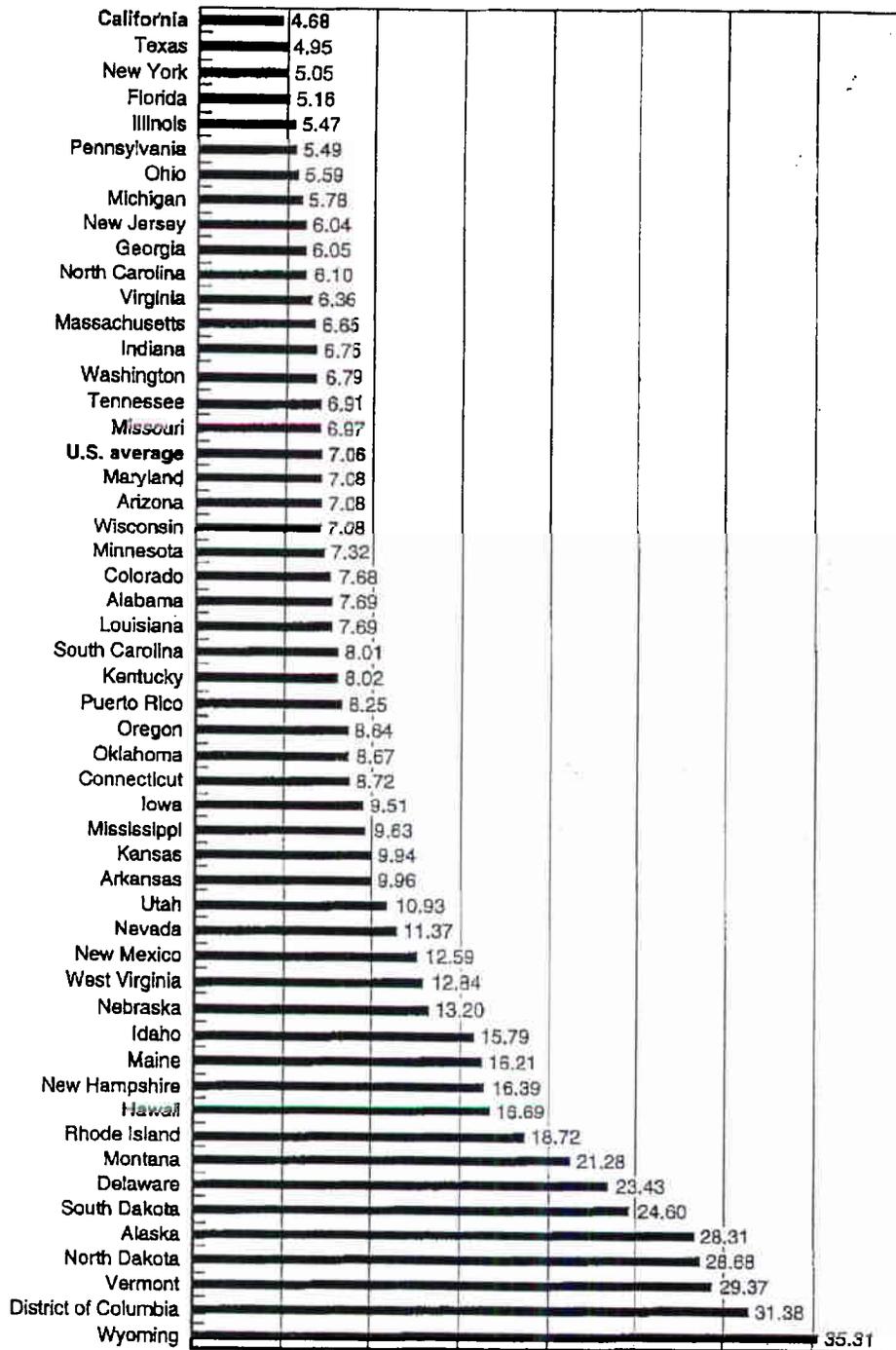
#### **THE OFFICE OF DOMESTIC PREPAREDNESS - SUPPORTING FIRST RESPONDERS**

The Minority supports robust funding for state and local first responders. First responders are the most likely to confront a terrorist attack before any Federal official. For FY 2005, the President's budget includes \$3.6 billion for the Office of Domestic Preparedness in the Department of Homeland Security to provide first responder training and assistance. This is a significant and problematic decrease from the \$4.4 billion appropriated in FY 2004.

Since September 11<sup>th</sup>, significant resources have been devoted to first responders. However, our nation's first responders continue to indicate a strong need for training, equipment, communications interoperability, and other support required to ensure that they are fully prepared to prevent and respond effectively to future terrorist attacks. Outside expert panels also continue to cite a need for additional resources. Given these substantial needs, the Minority believes that FY 2005 resources for state and local grant programs should be significantly increased above the levels proposed in the Administration's FY 2005 Budget.

The FY 2005 Budget significantly increases the amount of discretionary grant funds to be distributed based on threats and vulnerabilities. This improvement appears to be in response to serious concerns expressed during Committee oversight with regard to the disproportionate share of federal funds sent to less populated areas at the expense of highly populated metropolitan areas. The Minority supports the Administration's use of a new formula over the base formula authorized under the USA PATRIOT Act, and intends to exercise close oversight to ensure the continued development and implementation of a more appropriate and logical distribution of funds based on threats, population density, and other vulnerabilities. This oversight will include an examination of the methodology used to determine discretionary funding levels for individual states and localities to ensure that areas without a history of terror threats or other vulnerabilities are not receiving a disproportionate windfall.

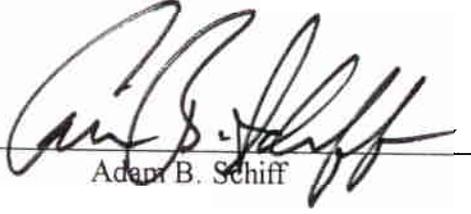
The Minority will continue to exercise close oversight to ensure the funding for first responder grant programs meets our national needs and protects all of America.

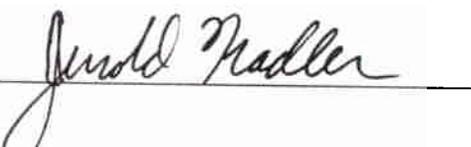


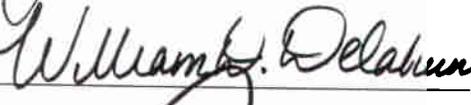
Fiscal year 2003 dollars per capita, by state

Figure 1—ODP State and Local Grants for First Responders and Critical Infrastructure Grants (Using USA Patriot Act 40/60 Formula) per Capita Allocation, by State, 2003

Additional Views from Adam B. Schiff on  
Views and Estimates

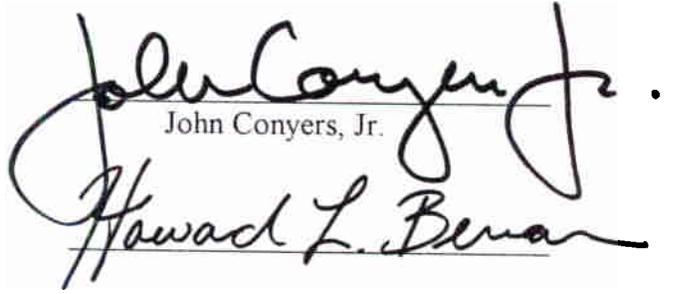
  
Adam B. Schiff

  
Gerald Nadler

  
William J. Delabunt

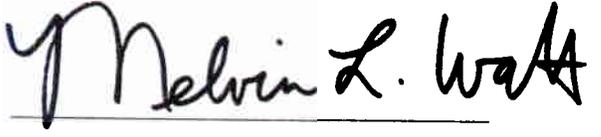


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John Conyers, Jr.

  
Howard L. Berman

  
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ADDITIONAL VIEWS OF CONGRESSMAN JEFF FLAKE  
MARCH 4, 2004

COMMITTEE ON THE JUDICIARY  
VIEWS AND ESTIMATES FOR FISCAL YEAR 2005

I disagree with the views contained in the following sections:

Election Reform

State and Criminal Alien Assistance Program (SCAAP)

State and Local Law Enforcement Assistance (OJP and COPS)

Drug Enforcement Administration - DOJ

Legal Services Corporation

The Office Domestic Preparedness: Supporting First Responders



JEFF FLAKE  
Member of Congress