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United States Senator
Written Testimony**

**Committee on the Judiciary
Subcommittee on Crime, Terrorism, Homeland Security and Investigations
United States House of Representatives
“Luxury Jets and Empty Prisons: Wasteful and Duplicative Spending at
the Department of Justice”**

April 10, 2013

Chairman Sensenbrenner, Ranking Member Scott, and Members of the Committee:

Thank you for the opportunity to participate in today’s hearing on wasteful and duplicative spending at the Department of Justice (DOJ). The Government Accountability Office (GAO) continues to provide excellent annual reports on duplicative federal programs, as well as specific publications on the Justice Department. The recently released third annual report is no exception, and I recommend it to each of you.

Federal duplication and the mismanagement of taxpayer funds in the current labyrinth of government programs is one of the most critical matters currently facing Congress. We must eliminate duplication wherever we find it, and stop contributing to the problem by continuing to create new, unnecessary and duplicative programs. A government with over \$16 trillion in debt owes its citizens a commitment to root out duplication and waste. If we do not, Congress will be unable to slow federal spending and will perpetuate ineffective government programs that do not actually meet the needs of those we intend to help.

This problem has never been more apparent than it is at the Department of Justice. My testimony will examine some of the primary pitfalls of duplication at the Justice Department, provide a brief overview of the current state of duplication across the government, and suggest ways Congress can eliminate duplication, including the comprehensive debt reduction plan I released in 2011 called *Back in Black*, and prevent waste, fraud, duplication, and unnecessary spending at the Justice Department in the future.

Duplication Nation

Over the past three years, GAO has released three annual reports on duplication, a report card on the federal government’s progress in reducing duplication by acting on prior GAO recommendations, and a report on reducing the risk of unnecessary duplication at the Department of Justice. The latest report was issued yesterday, and it highlights extensive duplication and overlap in hundreds of federal programs. This week’s report reveals 17 more areas of extensive duplication and an additional 14 areas of significant potential cost savings for the federal government.

The findings by GAO reveal just how much our government has grown and, in many cases, how Congress has played a significant role in this expansion by ignoring the principles outlined in the Enumerated Powers of the Constitution. Yet, even with the roadmap provided by GAO, Congress does not have the discipline to control federal spending and re-route our nation back to fiscal responsibility.

The lives of every American are touched, in some way, by a federal program or initiative. The federal government provides funding to address a variety of issues, from law enforcement to homelessness to victim assistance to education; however, these programs overlap each other not only across different agencies, but also within each individual agency as one agency usually administers multiple programs for the same or similar purposes. Whether it is carrying out similar missions or funding similar projects, everything the government is doing once, it is likely doing twice or three times and often not very well.

Duplication at the Department of Justice

As proven by the annual GAO duplication reports, every agency suffers from unnecessary duplication, overlap, and fragmentation; however, the Department of Justice (DOJ) has been one of the worst offenders.

While DOJ addressed GAO's 2011 recommendation to reduce overlap in explosives investigations between ATF and the FBI, GAO notes continued monitoring is needed to ensure successful implementation.¹ Furthermore, the 2012 annual duplication report, along with GAO's July 2012 report on DOJ grant programs, highlights the problems of waste, fraud, abuse, and duplication that continue to plague the Justice Department.

DOJ awards all grants through its three granting agencies—the Office of Justice Programs (OJP), the Office on Violence Against Women (OVW), and the Community Oriented Policing Services (COPS). “Since fiscal year 2005, Congress has appropriated approximately \$30 billion for crime prevention, law enforcement, and crime victim services for more than 200 federal financial assistance programs that the Department of Justice...manages.”² In FY 2010 alone, DOJ awarded approximately \$3.9 billion through 11,000 grants.

GAO notes the number of grant programs, recipients, and the billions of dollars awarded annually present multiple administrative challenges for DOJ. In fact, for the *11th consecutive year*, the DOJ Inspector General (DOJ IG) continues to include grant management on its list of “Top 10 Management Challenges” facing the DOJ.³ In its list of 2012 challenges, the DOJ IG notes “The Department’s management of grants and contracts has long presented a challenge by virtue of the large amounts of money at stake. From FY 2008 through FY 2011 the Department

¹ Government Accountability Office, “Opportunities to Reduce Potential Duplication in Government Programs, Save Tax Dollars, and Enhance Revenue,” March 2011, GAO-11-318SP, available at <http://www.gao.gov/assets/320/315920.pdf>.

² Government Accountability Office, “Opportunities to Reduce Potential Duplication in Government Programs, Save Tax Dollars, and Enhance Revenue,” February 2012, GAO-12-342SP, at 110, available at <http://www.gao.gov/assets/590/588818.pdf>.

³ U.S. Department of Justice, Office of the Inspector General, “Top Management Challenges,” available at <http://www.justice.gov/oig/challenges/>.

awarded approximately \$15 billion in grants and \$27 billion in contracts, and it awarded another approximately \$1 billion in grants and \$6 billion in contracts in FY 2012.”⁴

Grants continue to be managed poorly as the DOJ does not assess or evaluate its grant programs to determine if they overlap or duplicate each other, or to determine, where appropriate, if certain grant programs should be consolidated. GAO found DOJ “awarded funds from different grant programs to the same applicants whose applications described similar—and in some cases, the same—purposes for using the grant funds.”⁵ In addition, the three DOJ granting agencies are not required to consider sub-grant data in their award decisions. As a result, “Justice is at risk of unintentionally awarding funding from multiple grant programs to grant recipients in the same communities for the same or similar purposes because it does not consistently and routinely check for any unnecessary duplication in grant applications.”⁶

For example, 56 of the 253 grant programs (more than 20%) reviewed by GAO provide funds to be used for victims’ assistance. GAO notes 18 of those 56 programs were administered by a DOJ office *other than* OVW and the Office for Victims of Crime (OVC), even though the primary function of these two offices is to serve crime victims.

Furthermore, the DOJ IG and other GAO reports have consistently noted tremendous waste, fraud, and abuse in victims’ assistance funding, particularly those administered by OVW. For example, in February, the DOJ IG audited several OVW grants, totaling over \$2.2 million, awarded to a non-profit in Utah. The DOJ IG questioned almost \$28,000 of grant expenditures, which were used for such prohibited items as jackets and water bottles for the grantee’s staff at an end project celebration (which the non-profit says was an event *encouraged* by OVW), unapproved meals, window blinds and appliance warranties, unapproved training and travel costs, and a client’s cable TV bill.⁷

In February, the DOJ IG also audited six VAWA grants, totaling over \$4.1 million, to an Indian tribe in New Mexico.⁸ The DOJ IG found the Eight Northern Indian Pueblos Council, Inc. (ENIPC) incurred hundreds of thousands of dollars in unallowable costs through these grants. ENIPC paid over \$347,000 in unallowable payroll costs and an additional \$81,068 in unallowable fringe benefits associated with those payroll expenses. Furthermore, the DOJ IG questioned over \$97,000 in unsupported and unallowable training and associated travel costs incurred by ENIPC, as well as over \$15,000 in unallowable insurance charges. Overall, the DOJ IG determined that ENIPC did not have a “process in place to effectively ensure that charges to grants are allowable,” and questioned a total of \$573,266 (14%) in grant funds.⁹

⁴ *Id.* at Top Management Challenges, 2012.

⁵ Government Accountability Office, “Opportunities to Reduce Potential Duplication in Government Programs, Save Tax Dollars, and Enhance Revenue,” February 2012, *supra* note 2, at 111.

⁶ *Id.*

⁷ U.S. Department of Justice, Office of the Inspector General, “Audit of the Office on Violence Against Women Grants Awarded to Citizens Against Physical and Sexual Abuse, Logan, Utah,” GR-60-13-003, February 2013, *available at* <http://www.justice.gov/oig/reports/2013/g6013003.pdf>.

⁸ U.S. Department of Justice, Office of the Inspector General, “Audit of the Office on Violence Against Women Grants Awarded to the Eight Northern Indian Pueblos Council, Inc., San Juan Pueblo, New Mexico,” GR-60-13-004, February 2013, *available at* <http://www.justice.gov/oig/reports/2013/g6013004.pdf>.

⁹ *Id.* at 22.

And these are just two examples in one sub-agency from DOJ IG reports released this year alone. Unfortunately, there are many more highlighting problems in a variety of DOJ grants.

In July 2012, GAO released a report solely on *Justice Grant Programs*.¹⁰ The report addressed three questions: “(1) To what extent does overlap across DOJ grant programs exist and contribute to the risk of unnecessary duplication in grant awards? (2) To what extent has DOJ taken steps to reduce overlap in its grant programs and the potential for unnecessary duplication in grant awards? (3) To what extent does DOJ use grant monitoring and assessment to determine grant program effectiveness and use the results to enhance its grant programs?”¹¹

Based on a review of the 253 grant solicitations DOJ published in FY 2010, GAO determined DOJ grant programs overlap across 10 justice areas, and stated “the existence of overlapping grant programs is an indication that agencies should increase their visibility of where their funds are going and coordinate to ensure that any resulting duplication in grant award funding is purposeful rather than unnecessary.”¹² Even though GAO recognized overlap among some programs may be desirable to leverage multiple sources of funding for a single purpose, it stated “coordination across the administering granting agencies is critical for such leveraging to occur.”¹³ Yet, it appears there are too many grant programs with too many DOJ sub-agencies administering the grants to keep an accurate account of where taxpayer funds are going.

There is a lack of coordination in awarding grants to applicants as both the prime grantee and sub-grantee. GAO found DOJ’s granting agencies were awarding multiple grants to the same grantees for the same or similar purposes, and the ability to seek funding as both a prime and sub-grantee appear to exacerbate unnecessary duplication and overlap.

GAO reviewed 26 grant applications from programs identified as having similar purpose areas, and “found instances where applicants used the same or similar language to apply for multiple streams of funding.”¹⁴ For example, to receive funds to reduce child endangerment through cyber investigations, an applicant stated in both its application to the COPS Child Sexual Predator Program and OJP’s Internet Crimes Against Children (ICAC) program it would “use the grants to increase the number of investigations in the state, provide training for cyber crime investigations, serve as a forensic resource for the state, and establish an Internet safety program.”¹⁵ A second recipient received funding for sexual assault victim services from both the Office for Victims of Crime and OVW using similar language in both applications.

Notably, although DOJ contacted these grantees after GAO alerted it of the problems, follow-up for the purpose of determining duplication is not common practice at DOJ. In fact, what is very concerning to me is that DOJ employs a very narrow definition of “duplication” that prevents it from properly assessing true overlap within its grant programs.¹⁶

¹⁰ Government Accountability Office, “Justice Grant Programs: DOJ Should DO More to Reduce the Risk of Unnecessary Duplication and Enhance Program Assessment,” July 2012, GAO-12-517, available at <http://www.gao.gov/assets/600/592361.pdf>.

¹¹ *Id.* at 3.

¹² *Id.* at 13.

¹³ *Id.* at 15.

¹⁴ *Id.* at 16.

¹⁵ *Id.*

¹⁶ *Id.* at 17.

One area particularly ripe for unnecessary overlap is state and local law enforcement funding. The two primary grant programs for these purposes are Edward Byrne grant programs and Community Oriented Policing Services (COPS) grants. While there are at least 3 types of Byrne grants and several COPS grants, the largest sources are the Edward Byrne Memorial Justice Assistance Grants (Byrne JAG) and COPS Hiring grants. Both of these grants are written so broadly that state and local jurisdictions can use the funding for almost any law enforcement-related purpose, and as a result, these grants overlap each other as well as additional DOJ grants targeted at specific law enforcement issues.

For example, GAO conducted a survey regarding FY 2010 Byrne JAG funding, and found 23 of the 50 (nearly 50%) responding state administering agencies “reported that they or their sub-grantees used JAG funding to hire police officers, even though a separate DOJ program dedicates funding exclusively to hiring law enforcement personnel.”¹⁷ The other DOJ program, COPS Hiring grants “are designed to advance public safety through community policing by addressing the full-time sworn officer needs of state, local, and tribal law enforcement agencies nationwide.”¹⁸

GAO notes DOJ is not even aware that applicants receiving Byrne JAG funding through a sub-grant may also receive funding as a prime grantee from the COPS Hiring grant program. The above survey results “indicate an increased risk of DOJ funding unnecessarily duplicative grant awards.”¹⁹ In one single county, GAO found the county received both Byrne JAG and COPS Hiring grants for officers to conduct community policing. In addition, the largest city in that county also received a COPS Hiring grant for community policing, and those officers patrolled areas overlapping those monitored by the county officers. As a result, three DOJ grants provided community policing funds to the same geographical areas.²⁰

Similarly, one county received two different DOJ grants for its drug courts and mental health counseling—a Byrne JAG grant and an OJP Adult Drug Court Grant. **The county received so much federal money that it actually exceeded its need, and it planned to return some of the funds to DOJ.**²¹

Not only do federal grants for state and local law enforcement contain duplication and overlap, but the grantees also use the funds for questionable purposes. The 2009 American Recovery and Reinvestment Act (ARRA) provided the COPS program with an additional \$1 billion in funding during that fiscal year.²² However, many police departments were ineligible for grants due to

¹⁷ *Id.* at 18.

¹⁸ U.S. Department of Justice website, available at <http://www.cops.usdoj.gov/Default.asp?Item=2367>.

¹⁹ Government Accountability Office, “Justice Grant Programs: DOJ Should DO More to Reduce the Risk of Unnecessary Duplication and Enhance Program Assessment,” *supra* note 10, at 18.

²⁰ *Id.*; see also Government Accountability Office, “Opportunities to Reduce Potential Duplication in Government Programs, Save Tax Dollars, and Enhance Revenue,” *supra* note 2, at 115.

²¹ Government Accountability Office, “Justice Grant Programs: DOJ Should DO More to Reduce the Risk of Unnecessary Duplication and Enhance Program Assessment,” *supra* note 10, at 19; see also Government Accountability Office, “Opportunities to Reduce Potential Duplication in Government Programs, Save Tax Dollars, and Enhance Revenue,” *supra* note 2, at 115.

²² U.S. Department of Justice, Office of the Inspector General, “A Review of the Selection Process for the COPS Hiring Recovery Program,” No. 10-25, May 2010, at p. i, available at <http://www.justice.gov/oig/reports/COPS/a1025.pdf>.

past misuse of COPS funding. *USA Today* reported 26 police agencies in 16 states were barred from COPS stimulus funds “after misusing millions of dollars in prior aid.”²³

The DOJ IG has reported misuse of funds by both grantees and the COPS Office. For example, in 2011, the DOJ IG found the COPS Office improperly awarded a Technology Program grant to a grantee for personnel costs of four police officers when this grant was specifically to be used for law enforcement technology and interoperable communications, and the 2008 Consolidated Appropriations Act conference report also designated the grantee to use the funds for equipment.²⁴

In addition, despite claims to the contrary, there is little evidence showing that COPS funding has directly impacted violent crime rates. According to the Federal Bureau of Investigation (FBI) Uniform Crime Reports (UCR), with the exception of 2005 and 2006, the violent crime rate has continually declined since the 1990s.²⁵ In fact, at the end of 2011, on a per capita basis, violent crime was at its lowest level since 1970.²⁶

However, this downward trend has continued even when COPS funding has decreased.²⁷ Specifically, COPS Hiring grant funding was at its highest in 1997 and 1998; yet, the crime rate in those years was also much higher than it was in any of the subsequent years when COPS Hiring grant funding consistently decreased.²⁸ If COPS Hiring grants contributed significantly to the reduction of crime, then the years in which that funding was minimal should have been years with a significant *increase* in crime. DOJ funded COPS Hiring grants at its lowest (\$200 million or less) from FY 2002 – FY 2008, and in each year, violent crime rates were significantly lower than in the years where COPS Hiring grants received the greatest funding.²⁹

In fact, COPS grantees have even misused crime statistics to ensure they receive a grant, and the COPS Office has also not adequately reviewed applications to verify this and other information prior to awarding grants. In 2010, the DOJ IG reported several grantees serving small populations reported unusually high crime rates (ex. a town with a population of 426 reported 43 homicides in 1 year).³⁰ The COPS Office was relying on the *number* of crimes reported rather than the official crime *rates*, and claimed the short time frame for grant review and the ability of IT staff to create a new data query based on rates limited its ability to use more accurate data for

²³ Tom A. Coburn, M.D., “Back in Black: A Deficit Reduction Plan,” July 2011, at 310, available at <http://www.coburn.senate.gov/public/?p=deficit-reduction>; quoting Kevin Johnson, *No Stimulus for Police After Past Violations*, USA TODAY, May 6, 2009, available at http://usatoday30.usatoday.com/news/nation/2009-05-06-blacklist_N.htm.

²⁴ U.S. Department of Justice, Office of the Inspector General, “Audit of the Office of Community Oriented Policing Services Grant Award to the Corcoran Police Department, Corcoran, California,” GR-90-11-004, August 2011, at p. 5, available at <http://www.justice.gov/oig/grants/2011/g9011004.pdf>.

²⁵ Federal Bureau of Investigation, Uniform Crime Report, 2011, Table 1, available at <http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2011/crime-in-the-u.s.-2011/tables/table-1>.

²⁶ Nathan James, “Community Oriented Policing Services (COPS): Current Legislative Issues,” Congressional Research Service, R40709, November 20, 2012, at 3.

²⁷ Tom A. Coburn, M.D., “Back in Black: A Deficit Reduction Plan,” July 2011, *supra* note 23, at 308.

²⁸ Nathan James, “Community Oriented Policing Services (COPS): Background and Funding,” Congressional Research Service, RL33308, December 6, 2011, at 5; Nathan James, “Community Oriented Policing Services (COPS): Current Legislative Issues,” *supra* note 26, at 5.

²⁹ *Id.*

³⁰ U.S. Department of Justice, Office of the Inspector General, “A Review of the Selection Process for the COPS Hiring Recovery Program,” *supra* note 22, at 25.

grant evaluation.³¹ After reviewing a sample of 29 grantees, the DOJ IG questioned the crime rates used to award grants to 20 of those grantees.³²

Both the GAO and The Heritage Foundation have published studies suggesting little correlation between the violent crime rate and COPS funding from the early 1990s to early 2000s.³³ GAO concluded “COPS grants were not the major cause of the decline in crime from 1994 through 2001.”³⁴ For example, some cities, such as Oklahoma City, which did not accept COPS funds, reported declines in crime equal to those cities that did receive the grants.³⁵

For the Byrne JAG awards to state and local law enforcement, waste, fraud and abuse plagues the program right in our own backyard.³⁶ In 2010, the DOJ IG noted an award to Washington, D.C. was fraught with problems, including awards of over \$650,000 to unapproved sub-recipients in 2008,³⁷ failure to award grants to applicants with the highest peer review scores,³⁸ failure to review quarterly reports submitted by sub-recipients,³⁹ and over \$317,000 in unsupported administrative costs, such as office supplies, website services and consulting fees, in three different grants over three years.⁴⁰

Based on the Enumerated Powers of the Constitution, I do not believe the federal government has the authority to fund basic state and local law enforcement activities, such as hiring patrol officers and paying for their equipment. In fact, several states interviewed by GAO said they are in a better position to determine the needs of their communities, and federal funding delivery could be improved and risk of duplication reduced if DOJ would consult the states *before* making grant awards directly to localities.⁴¹ Not only does the federal government have no constitutional basis to fund most state and local law enforcement activities, but it also has zero ability to adequately meet the very different needs of each community through the one-size-fits-all approach of a few large federal grant programs.

Other questionable uses of DOJ grant funds where we could eliminate waste and save money include:

- **Weed and Seed Grant Program:** This grant was supposedly eliminated and replaced by the Byrne Criminal Justice Innovation Grant Program; however, grantees still receive funding through Weed and Seed. Last year, Easton, Pennsylvania received a Weed and

³¹ *Id.* at 26.

³² *Id.* at 27-28.

³³ David B. Muhlhausen, Ph.D. and Brian W. Walsh, “COPS Reform: Why Congress Can’t Make the COPS Program Work,” The Heritage Foundation, No. 2188, September 26, 2008, available at http://s3.amazonaws.com/thf_media/2008/pdf/bg2188.pdf.

³⁴ Government Accountability Office, “Community Policing Grants: COPS Grants Were a Modest Contributor to Declines in Crime in the 1990s,” Report to the Chairman, Committee on the Judiciary, House of Representatives, GAO-06-104, October 2005, at 16.

³⁵ Kevin Johnson, *Stimulus Funds New Police Officers*, USA TODAY, February 26, 2009, available at http://usatoday30.usatoday.com/news/nation/2009-02-26-cops2_N.htm.

³⁶ U.S. Department of Justice, Office of the Inspector General, “Office of Justice Programs Awards to Justice Grants Administration: Edward Byrne Memorial State and Local Law Enforcement Assistance Grant Program,” GR-30-10-002, June 2010, available at <http://www.justice.gov/oig/grants/g3010002.pdf>.

³⁷ *Id.* at 10.

³⁸ *Id.* at 17.

³⁹ *Id.* at 20.

⁴⁰ *Id.* at 7, 28.

⁴¹ Government Accountability Office, “Opportunities to Reduce Potential Duplication in Government Programs, Save Tax Dollars, and Enhance Revenue,” *supra* note 2, at 115.

Seed grant and spent \$5,000 on T-shirts for children participating in the program.⁴² The Weed and Seed coordinator labeled the T-shirts *important branding opportunities* for the program. In addition, a 2010 DOJ IG report revealed Weed and Seed grants to Oklahoma City were used on items such as flat screen TVs, samurai swords, arcade games, and binoculars, totaling over \$153,000 in questioned costs.⁴³ I have recommended elimination of this program and its successor, the Byrne Criminal Justice Innovation Grant Program. However, rather than eliminate Weed and Seed, in FY 2011 the administration created this new grant, merely stamping Weed and Seed with a new name.

- **Office of Juvenile Justice and Delinquency Prevention Grants (OJJDP):** This office awards a variety of overlapping grant funds to help states set up and operate their juvenile justice systems, and many could be eliminated. In November 2011, the DOJ IG questioned 100% of an OJJDP grant awarded to ACORN. This \$138,130 grant to the New York Agency for Community Affairs (NYACA) was passed through to ACORN. In fact, during the life of the grant, NYACA never had any paid employees, and the executive director of NYACA also served as executive director for the New York branch of ACORN.⁴⁴
- **Bureau of Prisons (BOP):** X-rays of all types seem to be a problem at BOP. For inmates, even though x-rays are now almost entirely digitized, the BOP still spends approximately \$1.3 million each year to create hard copies of prisoners' x-rays. Additional taxpayer funds are used to mail the copies to each institution to which the prisoners may be transferred.⁴⁵ For incoming packages, the Federal Transfer Center in Oklahoma City uses a contractor to provide x-ray machines to inspect the packages for contraband material, and the DOJ IG is now investigating that contract for potential fraud and waste of taxpayer funds.⁴⁶
- **U.S. Marshals Service (USMS):** Over the course of 18 months, the USMS made 455,000 purchases totaling over \$521 million.⁴⁷ The DOJ IG reviewed a sample of 638 purchases, and found 125 (20%) totaling \$230,000 were not made with proper prior approval.⁴⁸ Other questioned costs included purchases for instrument supplies, music and uniforms for the Pipes and Drums unit of the Investigative Operations Division, pizza,⁴⁹ a warehouse club membership,⁵⁰ over \$41,000 for lodging for visiting class

⁴² Zach Lindsey, *Easton Weed and Seed Director Calls T-shirts Important Branding Tools*, THE EXPRESS-TIMES, August 11, 2012, available at http://www.lehighvalleylive.com/easton/index.ssf/2012/08/easton_weed_and_seed_director.html

⁴³ Tom A. Coburn, M.D., "Oklahoma Waste Report: Exposing Washington's Wasteful Spending Habits in our Own Backyard," July 2011, at 36, available at http://www.coburn.senate.gov/public/index.cfm?a=Files.Serve&File_id=4f875398-b8bd-4fff-a37a-2cfe984bc3ec.

⁴⁴ Charles S. Clark, *Justice's Grant to ACORN-related Group Misused, Says Watchdog*, GOVERNMENT EXECUTIVE, November 30, 2011, available at <http://www.govexec.com/oversight/2011/11/justices-grant-to-acorn-related-group-misused-says-watchdog/35522/>; see also U.S. Department of Justice, Office of the Inspector General, "Audit of the Office of Justice Programs Office of Juvenile Justice and Delinquency Prevention Grant Awarded to the New York Agency for Community Affairs," GR-70-12-02, November 2011, available at <http://www.justice.gov/oig/grants/2011/g7012002.pdf>.

⁴⁵ Tom A. Coburn, M.D., "Wastebook 2012," October 2012, at 88, available at http://www.coburn.senate.gov/public/index.cfm?a=Files.Serve&File_id=b7b23f66-2d60-4d5a-8bc5-8522c7e1a40e.

⁴⁶ Coburn Staff Meeting with Department of Justice Inspector General, March 12, 2013.

⁴⁷ Department of Justice, Office of the Inspector General, "Audit of the United States Marshals Service's Procurement Activities," No. 13-05, December 2012, available at <http://www.justice.gov/oig/reports/2012/a1305.pdf>.

⁴⁸ *Id.* at 6.

⁴⁹ *Id.* at 9.

⁵⁰ *Id.* at 10.

advisors to the Training Division,⁵¹ and over \$10,000 for a gym membership by the Middle District of Florida.⁵² Furthermore, five of seven training conferences were cancelled at a cost of over \$79,000 and two had fewer attendees than anticipated, resulting in over \$10,000 in fees due to un-booked hotel rooms.⁵³ These examples only scratch the surface of the detailed DOJ IG report on the USMS, and most of the expenses could be eliminated.

- **Human Trafficking Grants:** Between 2007 and 2008, a DOJ IG report found numerous questioned costs in several DOJ trafficking grants. Those costs included \$700,000 to Boat People S.O.S. for advertising, software, stipends, emergency assistance, office insurance, and miscellaneous expenses,⁵⁴ and \$357,712 over less than two years for the Refugee Women’s Network to serve only twenty-one *potential* victims, of which only *five* turned out to be certified as actual trafficking victims.⁵⁵ Furthermore, there was a wide variation in the amount spent per victim among different grants, from a low of \$2,500 per victim to a high of \$33,333 per victim.⁵⁶ These costs increase when one includes only those who actually turn out to be victims. In fact, these figures are even more concerning when one takes into account the fact that the DOJ IG found grantees have “significantly overstated the number of victims they served,”⁵⁷ information DOJ also included in its annual report to Congress.⁵⁸ Reducing trafficking grant spending by 20%, as requested in the administration’s FY 2012 budget, would save \$14.04 million over 10 years.⁵⁹
- **Department of Homeland Security (DHS) Office of Bombing Prevention (OBP):** Despite GAO’s determination that the Justice Department took action to address overlap in explosives investigations between the Federal Bureau of Investigation (FBI) and Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), that does not solve the duplication between DHS and DOJ in this area. Despite the DOJ’s clear expertise and resources to deal with bombing incidents, DHS established an OBP in 2003 without authorization from Congress. In FY 2011, OBP received approximately \$15 million. By eliminating OBP and allowing ATF and FBI to handle explosives investigations, it would save taxpayers \$163 million over 10 years.⁶⁰

⁵¹ *Id.* at 13.

⁵² *Id.* at 14.

⁵³ *Id.* at 20-21.

⁵⁴ DOJ Inspector General’s Audit Report: GR-30-07-004, “Office for Victims of Crime, Victims of Exploitation, and Trafficking Assistance Grant: Boat People S.O.S., Inc., Falls Church, Virginia,” Department of Justice Office of Inspector General, July 2007.

⁵⁵ DOJ Inspector General’s Audit Report: GR-40-07-005, “Office of Justice Programs, Office for Victims of Crime, Services for Trafficking Victims, Discretionary Grant Program, Cooperative Agreement Awarded to Refugee Women’s Network, Inc., Decatur, Georgia,” Department of Justice Office of Inspector General, July 2007.

⁵⁶ Glenn A. Fine, “Top Management and Performance Challenges in the Department of Justice,” Inspector General Memorandum, November 13, 2008, available at <http://www.justice.gov/oig/challenges/2008/index.htm>.

⁵⁷ *Id.*

⁵⁸ “Attorney General’s Annual Report to Congress and Assessment of U.S. Government Activities to Combat Trafficking in Persons, Fiscal Year 2009,” U.S. Department of Justice, July 2010, available at <http://www.justice.gov/ag/annualreports/tr2009/agreporhumantrafficking2009.pdf> at 29. (“From the inception of the program in January 2003 through June 30, 2009, OVC grantees provided services to 2,699 pre-certified potential victims of trafficking.5 Data collected from July 1, 2008 to June 30, 2009 (the last full 12-month period for which data has not been previously reported in this report), indicate that 461 victims were enrolled as new clients by the OVC-funded grantees and were provided comprehensive services.”).

⁵⁹ Tom A. Coburn, M.D., “Back in Black: A Deficit Reduction Plan,” July 2011, *supra* note 23, at 330.

⁶⁰ *Id.* at 241-242.

Government-Wide Duplication: GAO Duplication Report (March 2011) and GAO Follow-Up on 2011 Report (February 2012)

In its March 2011 report, as part of its identification of massive duplication across multiple agencies, GAO identified nearly 430 individual programs with similar or overlapping missions.⁶¹ Those programs fall under 81 specific areas of duplication and potential cost savings. Examples include:

- 100+ surface transportation programs
- 88 economic development programs
- 82 teacher quality programs
- 56 financial literacy programs
- 47 job training programs
- 20 homelessness prevention and assistance programs
- 18 food for the hungry programs; and
- 17 disaster response and preparedness programs

Last year, in addition to releasing its second annual duplication report, GAO also released a follow-up report on the 2011 recommendations—a Washington report card, detailing actions taken or not taken by Congress and the Executive Branch to address duplication identified by GAO.⁶²

In the 2011 report, within the 81 specific areas of duplication and potential cost savings, GAO identified 176 explicit recommendations for ways in which Congress and the Executive Branch could eliminate duplication and make reforms that would save taxpayers billions of dollars.⁶³ However, GAO's 2012 report card gave Washington a failing grade.

Both Congress and the Executive Branch have failed to enact a majority of GAO's recommendations.

In fact, the February 2012 report card indicated Congress only fully implemented 4 (13%) of the recommendations, and the Executive Branch fully addressed 19 (13%) of GAO's recommendations. Combined, Washington fully addressed only 4 of the 81 areas identified by GAO, a mere 5 percent. Congress and the Executive Branch completely ignored 21 percent of the areas in desperate need of reform.⁶⁴ In short, 153 specific recommendations, 87 percent, made by GAO last year have not been fully implemented.

Of the 81 specific areas of duplication and potential cost savings:⁶⁵

- 4 (5%) are fully addressed and completed;

⁶¹ Government Accountability Office, "Opportunities to Reduce Potential Duplication in Government Programs, Save Tax Dollars, and Enhance Revenue," March 2011, *supra* note 1.

⁶² Government Accountability Office, "Follow-Up on 2011 Report: Status of Actions Taken to Reduce Duplication, Overlap, and Fragmentation, Save Tax Dollars, and Enhance Revenue," February 2012, GAO-12-453SP, available at <http://www.gao.gov/assets/590/588891.pdf>.

⁶³ *Id.* at 1.

⁶⁴ *Id.* at 2.

⁶⁵ *Id.*

- 60 (74%) were partially addressed; and
- 17 (21%) were not addressed in any way that GAO could identify.

Within the 81 specific areas, GAO made 176 explicit recommendations to Congress and the Executive Branch. Of those:⁶⁶

- 23 (13%) are fully addressed and completed;
- 99 (56%) were partially addressed; and
- 54 (31%) were not addressed in any way GAO could identify.

Of the 30 (17%) recommendations to Congress:

- 4 (13%) are fully addressed and completed;
- 8 (27%) were partially addressed; and
- 18 (60%) were not addressed in any way GAO could identify.

Of the 146 (83%) recommendations to the Executive Branch:

- 19 (13%) are fully addressed and completed;
- 35 (24%) were partially addressed; and
- 92 (63%) were not addressed in any way GAO could identify.

Fully Addressed Recommendations

Four of the 81 areas (5%) identified by GAO in 2011 were fully addressed by Washington in the 1-year following their publication. Congress addressed one area, and the Executive Branch addressed three.⁶⁷

- **Ethanol Tax Credit:** At the end of 2011, Congress did not extend the ethanol tax credit, eliminating this duplicative tax credit.
- **Explosives Investigations at DOJ:** The Executive Branch is now monitoring overlap in four areas of explosives investigations conducted by the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) and the Federal Bureau of Investigation (FBI), yet duplication with Department of Homeland Security (DHS) remains.⁶⁸
- **International Affairs:** The State Department is now formally delineating the roles of overlapping functions at its new Arms Control, Verification, and Compliance and International Security and Nonproliferation Bureaus.
- **IRS Program Integrity:** The IRS studied ways to systematically identify non-resident aliens who have improperly filed certain IRS forms. The IRS determined creating an automated program to identify this type of non-compliance is not currently cost effective.

Of note in its report card, GAO used certain criteria to assess whether its recommendations were fully, partially or not addressed by Congress and the Executive Branch.⁶⁹ For example, for purposes of *congressional* action:

⁶⁶ *Id.*

⁶⁷ *Id.* at 8-9, 11.

⁶⁸ *See infra*, at 9.

⁶⁹ *Id.* at 3.

- Addressed: Relevant legislation is enacted and addresses all aspects of the action needed;
- Partially Addressed: Relevant legislation has passed a committee, either the House or the Senate, or been enacted, but only addressed part of the action needed;
- Not Addressed: Legislation may have been introduced, but has not passed out of a committee.

For purposes of *Executive Branch* action:

- Addressed: Executive action taken to fully implement the recommendation;
- Partially Addressed: Some Executive Branch action started or in development, such as the forming a task force, but no action completed;
- Not Addressed: Minimal or no progress toward implementation by the Executive Branch.

As you can see, even though 60 of the 81 areas (74%) identified by GAO were partially addressed by Washington, by definition, no real reform has occurred in these areas. Rather, such partial fulfillment merely means a bill passed a committee or a task force was formed. These actions are great for a press release, but are clearly not effective solutions to the duplication problem.

Failure to fully address each of these 81 areas and all 176 explicit recommendations represents billions of dollars in savings lost by Washington.

Government-Wide Duplication: GAO Duplication Report—February 2012

Concurrent with its report card on Washington, GAO issued its second annual duplication report in February 2012. GAO again identified multiple areas of duplication, overlap and fragmentation.⁷⁰

The report recommended 51 areas where federal programs could achieve greater efficiencies or improve the provision of government services. Specifically, the 2012 annual report found 32 areas where there is duplication, overlap, or fragmentation among federal government programs. It also recommended 19 additional opportunities for agencies or Congress to take action that could either reduce the cost of government operations or enhance revenue collections.⁷¹

Examples of duplication and overlap include:

- 253 **Department of Justice** grant solicitations, yielding 11,000 grant awards totaling \$3.9 billion in FY2010 alone;
- 14 programs and 3 tax expenditures across 3 agencies to reduce **diesel emissions**;
- 94 federal initiatives across 11 agencies to foster **green building** in the private sector;

⁷⁰ Government Accountability Office, "Opportunities to Reduce Potential Duplication in Government Programs, Save Tax Dollars, and Enhance Revenue," February 2012, *supra* note 2.

⁷¹ *Id.* at 2.

- 160 programs, tax expenditures and other tools across 20 federal entities to **support homeownership and rental housing**;
- 50 programs in 9 federal agencies to support **employment for people with disabilities**.

The 2011 and 2012 GAO reports provide Congress and the Executive Branch with extensive details in 132 areas of government duplication and opportunities for significant cost savings and specific recommendations to address each area. As GAO stated in the 2012 annual report, “Collectively, this report shows that, if actions are taken to address the issues raised herein, as well as those from our 2011 report, the government could potentially save tens of billions of dollars annually....”⁷²

Unfortunately, as shown by last year’s report card, both Republicans and Democrats have failed to take action to address most of the areas ripe for reform. As a result, Congress is perpetuating the nation’s growing national debt, which now exceeds \$16 trillion.

I am encouraged by GAO’s continued innovation of ways in which it and the public can continue to hold Congress and the Executive Branch accountable for addressing waste, fraud, abuse and duplication identified in GAO reports. Thus, I hope the public will use GAO’s new online Action Tracker system to determine if Washington has indeed taken steps to follow GAO’s recommendations to reduce the unnecessary duplication across the federal government.

Preventing Future Duplication

With the release of yesterday’s third annual GAO duplication report, combined with the 2011 and 2012 duplication reports and last July’s report on *Justice Grant Programs*, Congress and the administration have been given extensive details in multiple areas of government duplication with the opportunity to provide significant cost savings by addressing waste, fraud, abuse, and overlap, particularly in DOJ grant programs.

In the July 2012 report, GAO provided specific recommendations to alleviate these problems at the Justice Department. While the administration must act to address many of the recommendations, Congress must also change our attitude of indifference and incompetence by recognizing that we have played a part in expanding the role of the Justice Department beyond its critical mission—“to enforce the law and defend the interests of the United States according to the law; to ensure public safety against threats foreign and domestic; to provide federal leadership in preventing and controlling crime; to seek just punishment for those guilty of unlawful behavior; and to ensure fair and impartial administration of justice for all Americans.”⁷³

As a result, in many areas, DOJ has failed to fulfill its pledge to the American people. Through continued growth of the Department through congressionally-mandated programs, as noted by GAO, even when the DOJ wants to consolidate programs, it must often “seek statutory authorization to discontinue or consolidate enacted programs that [it] believes may be

⁷² *Id.* at 3.

⁷³ Website of the U.S. Department of Justice, “About DOJ,” accessed April 4, 2013, available at <http://www.justice.gov/about/about.html>.

overlapping.”⁷⁴ Congress is largely to blame for creating new duplicative programs and failing to conduct oversight.

However, there are several areas where DOJ can improve its grant management, even if Congress fails to do its job. First, GAO notes DOJ has failed to conduct formal assessments of its grant programs to determine the extent of overlap or where it may consolidate programs. “By conducting an assessment of its grant programs...DOJ would be better positioned to take action, such as through consolidation and coordination of its programs, in a more systematic way to limit overlap and mitigate the risk of unnecessary duplication.”⁷⁵

Second, DOJ should establish procedures requiring grantees to disclose on their applications other federal funding they currently receive or for which they have recently applied.⁷⁶ Unfortunately, DOJ actually “encourage[s] applicants to seek out as much DOJ grant funding as possible, including from grant programs that may have similar objectives or allow for similar activities.”⁷⁷ By sharing information, DOJ could reduce the risk of unnecessary duplication and avoid awarding multiple grants to the same grantees for the same or similar purposes or in amounts in excess of the applicant’s need.

Third, DOJ can increase coordination among its three granting agencies to conduct a pre-award review of grants that have a risk of overlap. By doing so, DOJ could improve oversight and better utilize information it already has to avoid unnecessary duplication *before* final awards are made.⁷⁸

In doing so, DOJ should also strongly reconsider its definition of “duplication.” It continues to use a narrow definition of “duplication” such that it occurs only in “instances where grantees are using federal money for the same exact item.”⁷⁹ GAO notes DOJ “excludes from its purview all federal funding that grant applicants have been awarded to carry out the same or similar activities within a proposed project.” As a result, DOJ is likely “awarding funds for proposed projects that are already partially or fully funded, [and] it may also be doing so at the expense of other applicants who, in the absence of other funding sources, may demonstrate to [DOJ] greater financial need for their proposals.”⁸⁰ Every agency should use the same definition of “duplication,” the one suggested by GAO, so there is consistency across the federal government for programs that should be eliminated or consolidated as a result of overlap. Massaging the definition of “duplication” to fund multiple grants to the same grantees for the same or similar purposes is the height of wasteful government spending.

Fourth, DOJ should submit grant award information to USA Spending in a timely manner.

⁷⁴ Government Accountability Office, “Justice Grant Programs: DOJ Should DO More to Reduce the Risk of Unnecessary Duplication and Enhance Program Assessment,” *supra* note 10, at 20.

⁷⁵ *Id.* at 22-23.

⁷⁶ *Id.* at 25, 49.

⁷⁷ *Id.* at 26-27.

⁷⁸ *Id.* at 25.

⁷⁹ *Id.* at 24.

⁸⁰ *Id.*

Finally, Congress should also increase its oversight of the Department of Justice and its grant programs. While the House and Senate Judiciary Committees have general oversight hearings with the Attorney General, unfortunately, these hearings do not provide the opportunity to truly understand particular grant programs, ask probing questions, and make recommendations for changes. Congress should take active legislative steps to cancel, consolidate, and make statutory changes to DOJ programs to eliminate waste, fraud, and duplication.

For example, authorizing committees should conduct the necessary oversight before reauthorizing grant programs, and there should be specific sunset dates in the legislation. As noted earlier in my testimony, both COPS and Byrne JAG programs are fraught with waste and duplication; however, Congress has failed to actually investigate and reauthorize these programs based on detailed oversight. As a result, Congress continues to fund these programs without proper oversight and without establishing improved metrics with which to evaluate the programs in the future.

In addition to elimination or consolidation of specific grants, there are other non-grant program areas within the Justice Department that could be consolidated or eliminated to reduce duplication. For example, staffing of certain sub-agencies within the DOJ could be reduced, particularly where there has been a steady decrease in caseloads. INTERPOL's U.S. operation has seen a decreased caseload since 2010, but the President's 2012 budget request included a funding increase of 10%. Even decreasing the budget by 10% from the 2010 level would still yield an increase in the dollars spent per case. This 10% reduction would save \$33.3 million over 10 years.⁸¹

DOJ could also reduce the staff of the Office of Legal Policy. If DOJ reduced the staff by 10% and subjected OLP to the hiring freeze, it would save \$6.9 million over 10 years. DOJ could build additional savings by eliminating OLP's travel budget of \$7,000.⁸²

Furthermore, DOJ could require greater participation by state and local governments in the programs providing significant benefits to them. For example, federal law enforcement partners with state and local law enforcement across the country to apprehend criminals. Law enforcement can work together without spending money by simply opening the lines of communication and using resources already allocated to them. As a result, overhead costs would fall. However, in 2010, \$528.6 million went to the Organized Crime Drug Enforcement Task Forces, which only operate in nine select regions, despite being paid for by taxpayers around the country. If we required only the affected regions to contribute 25% toward the task force, while still retaining all funding for individual law enforcement agencies, we would save \$1.47 billion over ten years.⁸³

Many, many more examples of cost-savings at the DOJ are detailed in my deficit reduction plan, *Back in Black*. I also encourage all members of Congress to conduct their own oversight by finding waste and duplication in their own states and making it public. In July 2011, I released a

⁸¹ Tom A. Coburn, M.D., "Back in Black: A Deficit Reduction Plan," July 2011, *supra* note 23, at 322-323.

⁸² *Id.* at 331.

⁸³ *Id.* at 323-324.

41-page report detailing 30 specific programs and projects funded by the federal government within Oklahoma, costing taxpayers at least \$170 million.⁸⁴

We are looking into a future of trillion dollar deficits and a national debt quickly headed toward \$20 trillion. Our nation is not on the verge of bankruptcy—it is already bankrupt. We have maxed out our credit cards and are living off of our children’s credit, while funding a government with so many duplicative programs they cannot be described in one report by the GAO.

There have been countless discussions and bipartisan talks about how to address our debt and deficit, and get the economy growing again. Yet, there has been little agreement on specific ways to reduce spending and the size of the federal government. As a result, sequestration has now kicked in to achieve the savings Congress did not have the courage to enact.

But now, we have yet another part of the solution to the problem. GAO’s work over the last few years, including this week’s new duplication report, provides Congress and the administration hundreds of options for areas in which we could find savings. If we, as Members of Congress, are unable to agree on eliminating even one small program recommended in these reports, we have little hope of ever finding a complete solution to fix our budget woes.

For the sake of our future as a nation, in the coming months, as we once again hear similar promises from Washington to address the issues exposed by GAO this week, it is my hope, rather than kicking the can down the road, Congress will heed the advice in this and past reports, and work together to implement as many recommendations as possible to save our grandchildren from a dismal future saddled with crippling debt and leave them a more secure, fiscally sound country than we were given.

⁸⁴ Office of Senator Tom Coburn, “Oklahoma Waste Report: Exposing Washington’s Wasteful Spending Habits in Our Own Backyard,” July 2011, *supra* note 43.