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# United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

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March 5, 2010

The Honorable Kent Conrad  
Chairman  
Committee on the Budget  
United States Senate  
Washington, DC 20510

The Honorable Judd Gregg  
Ranking Member  
Committee on the Budget  
United States Senate  
Washington, DC 20510

Dear Chairman Conrad and Ranking Member Gregg:

Thank you for the opportunity to provide views view pursuant to section 301(d) of the Congressional Budget Act concerning Fiscal Year (FY) 2011 funding for programs within the Judiciary Committee's authorizing jurisdiction.

The Administration's proposal provides \$29.2 billion for the United States Department of Justice, an estimated increase of \$2.7 billion above the FY 2010 level of \$26.5 billion. The requests that I am making, as outlined below, show my commitment to ensure adequate resources for essential programs. I urge that these requests be given careful consideration.

## **State and Local Law Enforcement Assistance**

The need for State and local resources focused on protecting our communities from violent crime in combination with the resource demands of counterterrorism efforts at all levels of government, continue to strain the Nation's State and local law enforcement agencies. This is true particularly during this time of economic distress. It is essential that the budget provide the funding necessary to sustain and build the crime fighting capacity of State and local law enforcement through proven and effective law enforcement grant programs.

Community Oriented Policing Services (COPS) - The COPS Program, which enables local communities to substantially increase the number of law enforcement officers interacting with the community and encourages innovative crime prevention programs

and new law enforcement technologies, is a resounding success. Since 1995, COPS has awarded \$11.2 billion in grants to law enforcement agencies, more than 121,500 new law enforcement officers in over 13,600 communities in all 50 States, five Territories and the District of Columbia. Community policing and the outstanding work of so many law enforcement officers have played a vital role in our crime control efforts. With the Federal Bureau of Investigation (FBI) transitioning agents from crime to counter-terrorism, we need to provide more, not less, support for State and local law enforcement.

Additionally, significant progress in the reduction of rural and small city violent crime rates made in the 1990s has stalled and reversed, as a result of those affected areas being unable to sustain and increase their police forces due to budget constrictions. Funding provided through this program to put more law enforcement on the streets has had a measurable effect on violent crime in small cities and rural areas and Congress should increase its investment in this regard.

Supporting local police also helps economic development more broadly. Over the past decade, entrepreneurs and hardworking homeowners have brought new life to once stagnant, often crime-ridden communities in inner cities and rural towns across the country. As these communities became safer, property values rose, businesses thrived, and local economies prospered. If crime returns, these economic gains will be lost.

Given the present economic situation in the United States, and the likelihood that the incidence of property and other crimes will increase, strong Federal support of State and local law enforcement efforts is especially important.

The Violence Against Women and Department of Justice Reauthorization Act of 2005 (Public Law 106-192) authorized the COPS program at an amount of \$1.047 billion annually through FY 2009. I request that the COPS program be funded at its authorized level for FY 2011.

Edward Byrne Justice Assistance Grants (JAG) - As part of the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Public Law 109-162) Congress streamlined the JAG and the Local Law Enforcement Block Grants (LLEBG) programs into one program authorized at \$1.095 billion for fiscal years 2006 through 2012. As Chairman of the Judiciary Committee, I strongly urge that JAG be funded at authorized levels.

Violence Against Women Act (VAWA) - In 2005, Congress reauthorized the Violence Against Women Act (Public Law 109-162), which continues to be a tremendous success in providing essential and lifesaving programs to end sexual and domestic violence. Nearly 25 percent of U.S. women report that they have been physically assaulted by an intimate partner during their lifetimes, and one in six have been the victims of attempted or completed rape. The cost of intimate partner violence exceeds \$5.8 billion each year, \$4.1 billion of which is for direct medical and mental health care services.

Full funding for VAWA's programs and services is essential in preventing violence and repairing the lives of victims. Cornerstone grant programs such as Services, Training, Officers, Prosecutors (STOP), the Grants to Encourage Arrest and Enforce Protection Orders, the Sexual Assault Services Program for victims of rape and sexual assault, the Transitional Housing Program for domestic violence survivors, and the Rural Domestic Violence and Child Victimization Grants deserve full funding at their authorized levels of \$225 million, \$75 million, \$50 million, \$40 million, and \$55 million, respectively.

Bulletproof Vest Partnership (BVP) - The Bulletproof Vest Partnership Grant program plays an essential role in distributing lifesaving bulletproof vests to law enforcement officers serving in the front lines nationwide. The BVP program was reauthorized last Congress in the Bulletproof Vest Partnership Grant Act of 2008. That law authorizes \$50 million per year through FY 2012 for this successful program that protects the lives of State and local law enforcement officers. In fact, the BVP is so successful that since 1999, it has provided law enforcement officers in 13,000 jurisdictions nationwide with an estimated 800,000 new bulletproof vests.

The Bulletproof Vest Grant Partnership Act of 1998 was established in response to multiple tragedies involving law enforcement officers. In the tragic 1997 Carl Drega shootout on the Vermont-New Hampshire border, two State troopers who did not have bulletproof vests were killed. Congress subsequently acted, making the determination that Federal assistance to State and local law enforcement to support the purchase of life-saving body armor was sound public policy.

There is a continuing need for the grants provided under the Bulletproof Vest Partnership Grant Act. Bulletproof vests are fundamental to the protection of State and local law enforcement officers, but are subject to deterioration over time and periodically require replacement. Moreover, State and local law enforcement officers are increasingly called upon by the Federal Government to assist in the national effort to protect the Nation against terrorism, and we believe that Federal assistance should be commensurate with the evolving responsibilities of State and local law enforcement. I request that this important program be funded at its authorized level of \$50 million for FY 2011.

Juvenile Justice - Difficult economic times lead to fewer job opportunities, more hardship, and fewer programs for young people, all of which can lead to an increase in juvenile crime. Accordingly, prevention and treatment programs for juveniles are essential.

Juvenile Justice Accountability Incentive Block Grants, reauthorized in the VAWA and Department of Justice Reauthorization of 2005 (Public Law 109-162), provide State and local governments with resources for hiring of personnel, training law enforcement, and building facilities, among other programs aimed at effectively preventing and responding to juvenile crime. I urge the Budget Committee to allocate funding for this program at the authorized level of \$350 million.

Juvenile Delinquency Prevention Block Grants, authorized in Title V of the Juvenile Justice and Delinquency Prevention Act (JJDP) (Public Law 107-273), give key resources to State and local programs aimed at keeping children out of trouble, particularly in difficult times. I recommend funding this program at the authorized level of \$120 million.

Authorized in Title II of the Juvenile Justice and Delinquency Prevention Act, JJDP Formula Grants give States the resources they need for effective and appropriate enforcement, prevention, and treatment with regard to juveniles. I recommend these grants be funded at the authorized level of \$100 million.

The Judiciary Committee has reported a reauthorization of the Juvenile Justice and Delinquency Prevention Act, which we hope Congress will pass soon. The reauthorization will modernize, expand, and improve the Federal Government's programs assisting States in keeping our children safe and out of the criminal justice system. Our budget allocations should reflect these priorities.

Second Chance Act - The Second Chance Act of 2007 (Public Law 110-199), which passed with overwhelming bipartisan support, was signed into law in April 2008. The Second Chance Act is a common sense, evidence-based approach to improving public safety by helping prisoners turn their lives around. Most individuals face numerous challenges when returning to the community from prison and research indicates that more than half return to prison within three years of their release. By providing the resources needed to coordinate reentry services and policies at the State and local levels, the Second Chance Act ensures that the tax dollars spent on corrections do not simply fuel a revolving door in and out of prison. The programs authorized by the Second Chance Act address the wide array of issues that research has shown to improve reintegration and reduce recidivism, including education and job training, employment and housing services, substance abuse and mental health treatment, and mentoring programs.

The Second Chance Act authorizes \$165 million for programs that will improve coordination of reentry services and policies at the state and local levels. The Second Chance Act includes a \$55 million program for Adult and Juvenile Offender State and Local Reentry Demonstration Projects, which improve coordination of reentry initiatives and implement evidence-based practices. The Second Chance Act also authorizes a \$15 million program for Mentoring Grants to Nonprofit Organizations, which provide mentoring and other transitional services to adult and juvenile offenders reentering the community. I urge that these Second Chance Act programs be funded at the authorized levels.

Mentally Ill Offender Treatment and Crime Reduction Act (MIOTCRA) – This initiative was signed into law in 2004 after receiving unanimous bipartisan support in Congress to address the significant problem of people with mental illness in the criminal justice system. The law has been instrumental in helping State and local governments to develop initiatives to reduce costs, improve public safety, and allow the alarmingly high number of mentally ill offenders to receive the treatment they need to return to productive

lives. The MIOTCRA program is also important to our Nation's efforts to decrease crime and recidivism among mentally ill offenders. Last Congress, MIOTCRA was reauthorized at \$50 million for fiscal years 2009 - 2014. I urge MIOTCRA be allocated its full level of authorization.

Runaway and Homeless Youth Act - The Runaway and Homeless Youth Act was initially passed in 1974 (Public Law 93-415) and has been reauthorized several times, most recently last Congress in the Reconnecting Homeless Youth Act of 2008 (Public Law 110-378). These important programs serve America's most vulnerable youth through street outreach that helps to ensure youths' safety and survival, basic centers that provide refuge from victimization, and transitional living programs that help young people move toward productive adulthoods. The Nation's more than 400 programs help prevent victimization of runaway and homeless youth, ensure basic safety for unaccompanied minors, provide access to family reunification services; offer housing assistance for those at least age 16, and provide assistance for education including high school, GED, and post-secondary training. Life skills and money management; employment training and job-finding; and health care and other social services are also services provided by many runaway and homeless youth programs. I request that this program be allocated its authorized level of \$140 million for FY 2011.

Drug Courts - The Drug Courts program was authorized in the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Public Law 109-162) at an amount of \$70 million. Drug courts provide an important opportunity for communities to reduce drug abuse by providing incentives for low-level drug offenders to obtain effective treatment. I urge the Drug Courts program be allocated its authorized level of \$70 million.

Youth Violence Reduction Demonstration Grant Program - Section 1199 of the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Public Law 109-162) authorizes five demonstration grants for areas with high incidence of juvenile and youth violence, high recidivism rates, and large numbers of at-risk youth. It is imperative that we encourage State and local governments to develop and implement innovative youth violence reduction programs by funding their initial efforts. I urge this program be allocated its full authorized level of \$50 million.

#### Crime Victims Fund

Since its enactment more than 20 years ago, the Victims of Crime Act (VOCA) has been the principal means by which the Federal Government has supported essential services for crime victims. The VOCA created the Crime Victims Fund ("the Fund") so that fines, forfeitures, and assessments paid by Federal criminal offenders—not taxpayers—generate the revenue used for grants to State crime victim compensation programs, direct victim assistance services and services to victims of Federal crimes. Congress intended that these funds be held in trust to carry out these important purposes.

In FY 2000, Congress began limiting the amount of Fund deposits that could be obligated each year. This was in response to fluctuations in Fund deposits in order to “ensure that a stable level of funding will remain available for these programs in future years.” That same year, Congress amended the law to ensure all receipts remain in the Fund for obligation in future fiscal years. These steps created a balance in the Fund for use in years when the deposits fell below the annual cap. These services are essential to numerous victims’ assistance programs in every State. I request that the Committee oppose rescissions to the Fund.

More than 4,400 agencies nationwide provide critical services to nearly four million victims of domestic violence, sexual assault, child abuse, drunk driving, elder abuse and all other types of crime annually. These agencies rely upon VOCA grants to aid victims in paying for medical care, mental health counseling, lost wages and support, and funeral and burial costs through State crime victim compensation programs that supplement State-funded benefits with VOCA grants.

During the past year, victim service professionals have seen an increase in victimization and victim need, as job losses and economic stress translate into increased violence in the home and in our communities. Local shelters and crisis lines are also reporting a rise demand as the shortage of affordable housing and rising unemployment are increasing the time that victims stay in emergency shelters. The rising unemployment rate also means victims are less likely to have insurance to cover their crime-related expenses. Across the board, victim service providers are strapped for resources, forcing many to curtail specialized services, lay off staff and close their doors, jeopardizing many victims’ lives.

Last year, I introduced the Crime Victims Fund Preservation Act of 2009 (S.1340), which sets the cap for FY 2011 at \$867 million. Accordingly, I request that the amount in that legislation be taken into consideration when determining the cap for this year. Additionally, I request that that an extra \$100 million be allocated from the balance in the Crime Victims Fund for victims of domestic violence so that the President’s proposed initiative may be fully funded without adversely affecting other crime victims compensation and services.

### **Combating Crimes against Children**

I urge allocations at full authorization levels for programs aimed at combating crimes against children.

The Justice Department estimates that 2,200 children are reported missing each day. There are approximately 114,600 attempted stranger abductions every year, with 3,000 to 5,000 of those attempts succeeding. Experts estimate that children and youth comprise between 85 percent and 90 percent of missing person reports. Programs under the Missing Children’s Assistance Act work in coordination with Federal, State, and local law enforcement agencies to provide critical support to our law enforcement agencies in locating missing children.

Programs for missing and exploited children received should be funded at their fully authorized level in FY 2011.

I also recommend allocations for the programs authorized by the Adam Walsh Child Protection Act of 2006 (Public Law 109-248) be at the fully authorized levels. In particular, I believe that it is important to fund the United States Marshals Service to aggressively pursue sexual predators and to fund the Bureau of Prisons to implement a comprehensive sex offender management program in prisons. I also urge there be allocated at least \$18 million for Project Safe Childhood.

### **Justice For All Act**

The Justice For All Act (JFAA) (Public Law 108-405) reflects years of hard work and is an important piece of legislation that stands to improve the quality of justice for all Americans by harnessing the power of DNA evidence. The act was carefully drafted and negotiated by Congress with an eye toward creating a bipartisan scheme that addresses the rights of victims, improves forensic testing, reduces the risk of error in capital cases, and strengthens our Nation's criminal justice system.

The programs in the JFAA should be fully funded in FY 2011. The authorizations under the JFAA for FY 2009 include \$5 million for enhancement of the Victim Notification System, as authorized in section 103; \$28.5 million for the other victims' programs authorized in section 103; \$151 million for the Debbie Smith DNA Backlog Grant Program, as authorized in section 202 and reauthorized by the Debbie Smith Reauthorization Act of 2008 (Public Law 110-360); \$102.1 million for the other DNA programs authorized in sections 303-308; \$20 million for the Paul Coverdell Forensic Sciences Improvement Grant Program, as expanded by Section 311 of the JFAA; \$5 million for the Kirk Bloodsworth Post-Conviction DNA Testing Grant Program, as authorized in section 412; and \$75 million for the Capital Representation and Capital Prosecution Improvement Grants, as authorized in section 426.

The JFAA represents a strong bipartisan achievement and was an important step to improving our criminal justice system.

### **National Instant Criminal Check System (NICS)**

In 2007, both the Senate and House of Representatives took an important step toward improving the effectiveness of the National Instant Criminal Background Check System (NICS), which is administered by the FBI. At the end of the first session of the 110<sup>th</sup> Congress, both chambers unanimously passed the NICS Improvement Amendments Act of 2007 (Public Law 110-180).

The NICS Improvement Amendments Act of 2007 provides several State grant programs to give States strong incentives to begin improving the NICS system. The bill also provides penalties if States do not meet certain compliance standards. Given this approach, it is vitally important that NICS be fully funded at its authorization levels, so

that States will not later be punished without being given the resources to correct the system. The programs under the NICS Improvement Amendments Act of 2007 are authorized at \$250 million for FY 2011 and should be fully allocated.

### **Big Brothers Big Sisters and Boys and Girls Clubs of America**

The Big Brothers Big Sisters and Boys and Girls Clubs of America organizations are unique and valuable resources, which Congress has recognized by authorizing the missions of these organizations. In the 2010 Omnibus Appropriations Act Congress provided \$100 million for competitive youth mentoring grants. These organizations each deserve dedicated funding at their authorized levels.

Big Brothers Big Sisters - Subtitle A of Title VI of the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109-248) (the “Adam Walsh Act”) recognized the ability of youth mentoring to make a positive impact in the lives of at-risk children by authorizing the Office of Juvenile Justice and Delinquency Prevention to make grants to Big Brothers Big Sisters of America for use in expanding capacity and serving youth. The program should be fully allocated at its authorized level of \$15 million for FY 2011.

Boys and Girls Clubs of America - Boys and Girls Clubs across the country are a proven success in supporting our Nation’s young people and promoting leadership. Congress authorized funding for the Boys and Girls Clubs through 2010, and has consistently appropriated funds in recognition of the organization’s success in discouraging youth gangs, drug abuse, and violence in communities across the country. In order to continue its work on behalf of the Nation’s young people, this funding is critical. Therefore, the Boys and Girls Clubs of America should be allocated its FY 2010 authorized level (Public Law 108-344) of \$100 million.

### **Regional Information Sharing System (RISS)**

The RISS serves as an invaluable tool to Federal, State and local law enforcement agencies by providing much-needed criminal intelligence and investigative support services. It has built a reputation as one of the most effective and efficient means developed to combat multi-jurisdictional criminal activity, such as narcotics trafficking and gang activity. Without RISS, most law enforcement officers would not have access to newly developed crime-fighting technologies and would be hindered in their intelligence-gathering efforts.

We must ensure that RISS can continue current services, meet increased membership support needs for terrorism investigations and prosecutions, increase intelligence analysis capabilities and add staff to support the increasing numbers of RISS members. The RISS operates six intelligence centers that support over 8000 local, State, Federal, and tribal law enforcement agencies, and its membership continues to grow every year. In the 2010

Omnibus Appropriations Act, \$45 million was appropriated for RISS. I request that the RISS program continue to be allocated \$45 million for FY 2011.

### **Fraud Enforcement and Recovery Act**

The bipartisan Fraud Enforcement and Recovery Act (FERA) (Public Law 111-21) was signed into law by the President last year. This law has the ability reinvigorate our Nation's capacity to investigate and prosecute the financial frauds that have so severely undermined our economy and hurt so many hard working people in these difficult economic times. The FERA provides the resources and new tools needed by law enforcement to uncover and prosecute these frauds and aggressively enforce fraud in connection with bailout and recovery legislation.

The FERA authorizes \$165 million a year for hiring fraud prosecutors and investigators at the Justice Department for FY 2011. This includes \$75 million for the FBI to hire 190 additional special agents and more than 200 professional staff and forensic analysts to rebuild its "white collar" investigation program. With this funding, the FBI can double the number of its mortgage fraud task forces nationwide – from 26 to more than 50 – that target fraud in the hardest hit areas of our Nation. The total also includes for FY 2011, \$50 million for U.S. Attorneys' Offices to staff those strike forces and \$40 million for the Criminal, Civil, and Tax Divisions at the Justice Department to provide special litigation and investigative support. In addition, the bill authorizes \$80 million in FY 2011 for investigators and analysts at the U.S. Postal Inspection Service (\$30 million), Office of Inspector General for the Housing and Urban Development Department (HUD IG) (\$30 million), and the U.S. Secret Service (\$20 million) to combat fraud against Federal assistance programs and financial institutions.

I recommend that FERA be allocated its authorized levels in FY 2011, which would be \$165 million for the Justice Department (as allocated by the bill), \$30 million for the Postal Inspection Service, \$30 million for the HUD IG, and \$20 million for the U.S. Secret Service.

### **Public Corruption Prosecution Improvements Act**

The bipartisan Public Corruption Prosecution Improvements Act of 2009, which has the strong support of the Department of Justice, was reported by the Senate Judiciary Committee on March 12, 2009. Among other things, the bill provides \$100 million over four years in much-needed additional funding for public corruption enforcement, which has fallen over the past eight years as resources have been shifted away from the pursuit of white collar crime to counterterrorism. While there may be further changes to the bill before enactment, I do not anticipate changes to the bill's authorizing provisions. Therefore, I suggest that the authorized level of funding of \$25 million to the Department of Justice and the Offices of Inspector General, be given consideration in the FY 2011 budget.

## **Rural Law Enforcement Assistance Act of 2009**

The bipartisan Rural Law Enforcement Assistance Act (S. 150) reauthorizes the rural law enforcement assistance program first passed by Congress in the early 1990s, and I expect it to pass this year. Like so many valuable programs that help local law enforcement and crime prevention, funding for this program was allowed to lapse over the last eight years, despite its effectiveness in contributing to the record drop in crime in the late 1990s.

The bill authorizes \$75 million a year over the next five years in new Byrne grant funds for State and local law enforcement, specifically for rural States and rural areas within larger States. This support would be used to hire police officers, purchase necessary police equipment, and to promote the use of task forces and collaborative efforts with Federal law enforcement. Just as important, these funds would also be used for prevention and treatment programs in rural communities – programs that are necessary to combat crime and are too often the first programs cut in an economic downturn. This bill also authorizes \$2 million a year over five years for specialized training for rural law enforcement officers, since training is another area that often experiences cuts in hard times. This bill will immediately help cash-strapped rural communities with the law enforcement assistance they desperately need.

I suggest that the authorized funding of \$75 million be given consideration in the FY 2011 budget.

## **Federal Bureau of Investigation (FBI)**

The President has requested \$8 billion for the FBI. While we support the President's request, we emphasize the following:

I note the FBI's troubled efforts to modernize its information technology (IT) program since September 11, 2001. In past years, the Justice Department's Office of the Inspector General (OIG) has issued several audit reports on the FBI's latest IT modernization program, known as Sentinel. In August 2007, the Inspector General (IG) issued its latest audit of Sentinel reporting on the completion of phase one of four in the program. The IG found that certain elements of the Sentinel Program would be delayed, and identified some cost overruns for the program, suggesting that the program will need continued monitoring to ensure the program accomplishes its goal of creating a functional IT system for the FBI. While supportive of funding for Sentinel, the Judiciary Committee is committed to conducting vigorous oversight of the FBI to ensure the Sentinel Program remains on budget and on schedule.

The Judiciary Committee will also pursue oversight of additional budget-related matters at the FBI. For example, we will continue to examine whether the FBI has been successful in developing, training, and retaining its growing workforce of intelligence analysts.

We are pleased with the progress the FBI has made in clearing its backlog of pending name checks, and we are hopeful that the FBI will continue to make efficiency a priority

in the name check process to avoid future backlogs. The National Name Check Program (NNCP) reportedly receives between 3.3 and 3.5 million name check requests annually. Of these, more than 1.5 million are related to immigration cases from the Department of Homeland Security, followed in volume by requests from the Office of Personnel Management and the State Department. Given the critical importance of these security processes, we emphasize our hope that the FBI will continue to improve the program's efficiency and effectiveness.

### **Civil Rights**

The Department of Justice plays a vital role in prompt enforcement of our civil rights. I support an increase in funding for the Civil Rights Division and an increased focus on the core mission of the Division to safeguard civil rights. I support the President's request of \$145 million for the Civil Rights Division at the Department of Justice.

Emmett Till Unsolved Civil Rights Crime Act - The Emmett Till Unsolved Civil Rights Crime Act of 2007 (Public Law 110-344) ("Emmett Till Bill"), was signed into law on October 7, 2008. The Emmett Till Bill should be fully funded to ensure that the Federal Government can investigate and prosecute unsolved civil rights cases before the window of time to do so closes.

The Emmett Till Bill authorizes \$10 million for the Attorney General to investigate and prosecute decades-old violations of criminal civil rights laws. The bill authorizes \$2 million in grant awards to State and local law enforcement agencies for expenses associated with the investigation and prosecution of criminal offenses involving decades-old civil rights murders. It also includes \$1.5 million for the Community Relations Service of the Department of Justice to provide technical assistance to bring together law enforcement agencies and communities to investigate decades-old violations of criminal civil rights laws. I recommend full allocation for Emmett Till Bill programs at the authorized levels.

Hate Crimes –After more than a decade, the Local Law Enforcement Hate Crimes Prevention Act ("Hate Crimes Act") was enacted last year as part of the National Defense Authorization Bill (public law 111-84). This legislation should be fully funded to provide support for Federal authorities to investigate and prosecute crimes based on race, color, religion, and national origin.

### **Office of Inspector General (OIG)**

The Office of Inspector General (OIG) plays an important role in oversight and improvement of the Department of Justice's functions, and will play a crucial role in the coming years to restore confidence in the Department of Justice. The OIG has exercised responsibility for many important investigations, including matters relating to the removal of U.S. attorneys and alleged politicization in the Department of Justice's hiring process for career employees; a follow-up review of the FBI's use of national security letters; a review of the Justice Department's involvement with the National Security

Agency terrorist surveillance program; and a review of the FBI's involvement in and observations of detainee interrogations in Guantanamo Bay, Iraq, and Afghanistan. These reviews and the OIG's continued oversight are essential to restoring the independence and integrity of the Department of Justice.

The administration has requested \$88.8 million for the Office of the Inspector General, and I support the request.

### **Freedom of Information Act (FOIA)**

A key reform in the Open Government Act of 2007 (Public Law 110-175) is the creation of the Office of Government Information Services (OGIS) in the National Archives and Records Administration. Among other activities, OGIS mediates disputes between Federal agencies and FOIA requestors and reviews agency compliance with FOIA.

Congress provided initial funding in the 2009 Omnibus Appropriations Act to establish this critical office. In 2009, President Obama appointed the first Director for OGIS and OGIS has begun its important work. However, additional resources are needed in order for OGIS to fulfill its obligations under the OPEN Government Act. Accordingly, I recommend allocating additional funding for OGIS to secure resources, so this important office can carry-out its mission.

### **Secret Service**

Cyber and identity crime investigations conducted by the Secret Service are essential to protecting our Nation's financial and telecommunications infrastructure. Funding is needed to support the highly successful operations of the Secret Service's Electronic Crimes Task Force (ECTF) initiative – an initiative that has attracted broad, bipartisan support from Congress since passage of the USA PATRIOT Act of 2001. Financial fraud and identity crimes committed both domestically and abroad, continue to plague our Nation's critical financial infrastructure. One of the most effective means of combating organized criminal elements and the criminal abuses of technology, both in the U.S. and abroad, is through the use of the Secret Service's ECTFs. The ECTFs are a proven, resounding success, creating groundbreaking partnerships between Federal law enforcement, their local police and prosecutorial partners, and the private sector and academia. These task forces, strategically placed throughout the country, have become the primary conduit for cooperation between the Federal Government and the private sector in the prevention, detection and investigation of electronic crimes. I recommend increased funding for this highly successful program to continue an effective law enforcement program and training of special agents.

Funding is also important for the Secret Service for electronic crimes investigative training. Such training is imperative for the basic investigations of computers and electronic crimes, in advanced network intrusions, and in the forensic examination and preservation of digital evidence.

Funding should also be directed at electronic investigative operations. Technological advances offer domestic and transnational criminals new avenues to exploit our financial infrastructure vulnerabilities. Identity crime, credit card fraud and bank fraud are now being routinely committed on the Internet. Through its investigations, the Secret Service identifies systemic weaknesses in the financial, telecommunications, and other critical infrastructures. The information gathered will provide private industry and the public the ability to identify vulnerabilities and prevent or minimize future attacks.

Finally, funding should be directed at programs to collect and analyze criminal intelligence. The Secret Service serves as a central repository for the collection of data related to identity theft, credit card fraud, bank fraud, and telecommunications fraud. Developing technologies and trends in the financial payment industry provide information that may be used to enhance the Secret Service's capabilities to prevent and mitigate attacks against the financial and telecommunications infrastructures.

### **Cyber Crime and Identity Theft**

Cyber crime and identity theft investigations are essential to protecting our Nation's financial and telecommunications infrastructure and the privacy of all Americans. Funding and staffing resources should also be directed at electronic investigative operations involving data breaches and the theft of sensitive personal data contained on government and private sector computers.

Identity theft, one of the most common forms of cyber crime, is a major concern among State and local law enforcement agencies. There is a critical need for the Federal Government to take a leading role in establishing a national strategy to combat identity theft. I recommend allocating full funding to initiatives aimed at fighting cyber crime, and particularly those undertaken by the electronic crimes task forces of the United States Secret Service.

### **Copyright Royalty Board (CRB) and the Copyright Royalty Judges**

The Copyright Royalty and Distribution Reform Act of 2004 replaced copyright arbitration royalty panels with the Copyright Royalty Board (CRB). The CRB took over the adjudication of royalty rates for compulsory licenses under the Copyright Act, conducting proceedings that, for example, set rates to be paid by entities ranging from cable companies to webcasters for their use of copyrighted content as they deliver video and music programming. The CRB is also involved in adjudicating disputes about how these payments are distributed to copyright holders.

Because the benefits of compulsory licensing flow almost exclusively to the licensees and the public, we believe the cost of administering the licenses should not be paid exclusively by the copyright holders. The law creating the CRB made clear that funding was to be made out of public funds and not out of the Copyright Office account (17 U.S.C. 803(e)(1)(B)). Thus, to implement that provision, we urge that the CRB receive

full and mandatory funding, in the amount of \$1,450,000 for FY 2011, in order to permit this important work to be accomplished.

### **U.S. Patent and Trademark Office**

We urge the Committee to fully allocate for the United States Patent and Trademark Office (PTO) and to prevent the diversion of fees from the agency to other governmental bodies. This funding would provide critical resources to the PTO, which currently faces an overwhelming backlog of patent applications. In order to cut down on backlog and increase patent quality, the agency needs the full allocation of resources to hire more examiners and staff members.

### **Intellectual Property Enforcement Funding**

Industries based on intellectual property (IP) account for more than \$5 trillion of the U.S. gross domestic product, drive more than half of U.S. exports, and employ over 18 million Americans. I urge full funding of initiatives aimed at fighting intellectual property theft, particularly those undertaken by the Department of Justice for intellectual property rights enforcement. In particular, Public Law 110-403 authorized \$25 million in each of fiscal years 2009 to 2013 to make grants to eligible State or local law enforcement entities to combat intellectual property theft and infringement crimes; \$10 million in each of fiscal years 2009 to 2013 to hire ten additional agents at the FBI designated to support Computer Crime and Intellectual Property Section, ensure all Computer Hacking and Intellectual Property Crime Units are supported by at least one FBI agent, ensure all Computer Hacking and Intellectual Property Crime Units are assigned at least two Assistant United States Attorneys and provide appropriate training; and authorized \$10 million in each of fiscal years 2009 to 2013 for the FBI and the same amount for the Criminal Division to hire and train law enforcement officers and to procure advanced tools for investigating high tech crimes. We urge the Committee to fully fund these new law enforcement programs that will benefit our economy.

Public Law 110-403 also elevated the intergovernmental coordination of intellectual property enforcement efforts within the administration from the Department of Commerce to the White House with the creation of the Intellectual Property Enforcement Coordinator. The Coordinator will chair a council of representatives from every Department and agency that actively participates in the enforcement of intellectual property. The Coordinator has been nominated, confirmed and appointed but needs a budget and staff to be effective.

### **The Federal Judiciary and Court Security**

The Judiciary Committee recognizes the essential role that an independent Federal judiciary plays in our constitutional system of government. We understand that Federal judges have no control over the number of cases filed in Federal courts and have little flexibility in how quickly these cases must be handled. The judiciary's workload is heavily influenced by national policies initiated in the Executive and Legislative

Branches. In an effort to supplement the annual appropriation for the Federal judiciary, the Committee makes the following requests:

Court Security Improvement Act - In 2008, the Court Security Improvement Act (public law 110-177) was enacted into law. This law demonstrates Congress's strong support for the safety and security of the Nation's court personnel. I suggest allocating the authorized level of \$55 million for FY 2011.

New Federal Judgeships - Looking ahead, there is a need for new Federal judgeships to address the judiciary's increasing caseloads. Since 1990, case filings on Federal appellate courts increased by 55 percent and case filings on Federal district courts rose by 29 percent. In 2006, the weighted number of filings in district courts, which takes into account an assessment of complexity, were 464 per judgeship, well above the Judicial Conference's standard. The same year, the national average circuit court caseload per three-judge panel approached the record number of 1,230 cases, recorded a year earlier. I expect the Judiciary Committee to consider legislation during this session that would add additional judgeships to the Federal district and circuit courts to address this shortfall based on the recommendations of the Judiciary Conference of the United States and as reflected in S.1653, Federal Judgeship Act of 2009.

Thank you again for soliciting these views and estimates for FY 2011. I look forward to working closely with you on this and other issues.

Sincerely,

A handwritten signature in black ink that reads "Patrick Leahy". The signature is written in a cursive, flowing style.

PATRICK LEAHY  
Chairman