

The background of the slide features a faded, grayscale image of the American flag, showing the stars and stripes. The text is overlaid on this background.

# GOAL SEVEN

Protect the Federal  
Judiciary and Provide  
Critical Support to  
the Federal Justice  
System to Ensure it  
Operates Effectively

# VII

# GOAL SEVEN

## Protect the Federal Judiciary and Provide Critical Support to the Federal Justice System to Ensure it Operates Effectively



The Department plays a key role in the administration of the federal justice system. We support the federal courts by protecting federal judges, witnesses, and other participants in federal court proceedings; providing courtroom security; making sure that persons in custody are escorted to and from proceedings in a safe and secure manner; and apprehending federal fugitives from justice. An especially important responsibility of the Department is meeting the needs of federal crime victims and witnesses. We place a high priority on treating victims and witnesses fairly, compassionately, and with respect. Finally, we also work to ensure the effective operation of the Nation's bankruptcy system.

### STRATEGIC OBJECTIVE 7.1

#### PROTECTING THE JUDICIARY

*Ensure the integrity and the safe and secure operation of the federal judicial system by protecting judges, witnesses, and other participants in federal proceedings.*

The federal judiciary system is a key pillar of the United States system of government, ensuring that laws are upheld fairly and that offenders receive just punishment for their crimes. The system cannot work without judges, witnesses, and other court participants who are fearless and unyielding to threats, intimidation, or harassment. The Department's aim is to ensure that no judge, witness, or other court participant is the victim of an assault stemming from his or her involvement in a federal court proceeding. Federal judicial proceedings must be open, secure, and free from obstruction, intimidation, or threat of violence. Security for federal judicial proceedings is provided by the Department through the United States Marshals Service; the FBI is responsible for investigating violence, threats, obstruction, or harassment against the federal judicial system and its participants.

#### Strategies to Achieve the Objective

*Monitor, assess, and investigate threats made against judges, court personnel, witnesses, and victims to stop or deter potential violence.*

Investigating potential threats of violence planned against court officials - - judges, prosecutors, victims, witnesses, court support staff - - is a critical aspect of providing security. Because of such threats, security must sometimes be provided

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both inside and outside the courtroom. In 2000, there were 683 inappropriate communications, which included threats and verbal assaults against judges and other members of the court family. The USMS, with the help of other federal, state, and local law enforcement agencies, must carefully assess each potential threat based on the best intelligence available and respond in a timely and appropriate way. In addition, the USMS manages a federal witness protection program that provides for the long-term protection of selected witnesses and their family members.

The FBI utilizes various intelligence sources to report potential or actual threats against the federal judiciary. These sources include other law enforcement agencies, joint terrorism task forces, violent crime task forces, informants, and cooperating witnesses. The Bureau has immediate notification procedures to provide timely notice of threats; it also collaborates with U.S. Attorneys Offices to determine the prosecution potential of each threat identified.

*Meet court security standards.*

In 1999, the USMS conducted a security requirements survey of prisoner movement space in federal courthouse facilities in the United States, Guam, Puerto Rico, and the Virgin Islands. The survey evaluated each facility against USMS security specifications and requirements. Survey results indicated that 94 percent of the federal courthouse facilities did not meet minimum security standards. As a key means to improve security of these facilities, USMS continues to renovate U.S. courthouses and court-occupied space to bring them up to security standards.

At the same time, the USMS works to ensure that court proceedings are adequately staffed. The desired standard for courtroom security is one more deputy U.S. marshal than the number of defendants in the courtroom. Unfortunately, due to growing prisoner populations throughout the country, the USMS has been unable to maintain this security standard. Along the southwest border in particular, large numbers of prisoners have dramatically reduced the ability of deputy marshals to produce defendants according to the desired security standard.

### **Key Crosscutting Programs**

*Memorandum of Understanding on Court Security.* A Memorandum of Understanding established in December 1997 between the USMS and the Administrative Office of the United States Courts (AOUSC) provides guidelines and procedures to implement the recommendations of the Attorney General's Task Force on Court Security. The MOU defines the USMS court security programs and expresses the terms and conditions under which funds appropriated to the judiciary will be transferred to the USMS from AOUSC for use in providing security to the federal courts.

*MOU on Courthouse Security.* Providing security in federal courtrooms requires coordination among several key federal agencies, each with different jurisdictional responsibilities. The General Services Administration (GSA) Federal Protective Service is responsible for perimeter security and preventing unwarranted entry into a U.S. courthouse facility. The USMS Judicial Security Systems staff is responsible for security of the interior spaces within a U.S. courthouse facility for which the Judiciary or AOUSC pays rent. The USMS Central Courthouse Management Group is responsible for security of all spaces for which the USMS pays rent,

including all prisoner movement and detention areas. The physical unification of the specified security systems and devices usually occurs in the USMS command and control centers located in the USMS office within the U.S. courthouse. These agencies are mutually supportive of the mission to provide the proper level of security for a U.S. courthouse as defined in the MOU among the GSA, USMS, and AO USC.

## STRATEGIC OBJECTIVE 7.2

### VICTIMS RIGHTS

*Protect the rights of crime victims and assist them in moving through the processes of the federal justice system.*

Victims play a central role in the federal criminal justice system. Their participation often makes the difference between a conviction and an acquittal. Yet being a victim can be an overwhelming, even traumatic, experience. Prior to recent federal and state legislation making improvements in how victims are treated, some felt revictimized by a criminal justice system insensitive to their needs.

The *Attorney General Guidelines for Victim and Witness Assistance* set forth Department of Justice requirements and policies regarding the treatment of victims and witnesses. They recognize that federal criminal justice system personnel - - including investigators, prosecutors and correctional officers - - have a special responsibility to treat victims and witnesses of federal crimes fairly by enforcing their rights, properly including them in criminal justice system processes, and referring them to appropriate services. In order to ensure that victims are assisted through the entire process of the federal justice system, the Department of Justice employs victim-witness coordinators and victim specialists in its components.

Victim-witness coordinators in each of the 94 U.S. Attorneys' offices play a crucial role in increasing the participation and cooperation of victims and witnesses. They help implement the *Attorney General Guidelines*, ensure that those involved in working with victims and witnesses are properly trained, and help victims and witnesses from a wide range of socioeconomic backgrounds, cultures, and ethnic groups understand their rights and their role as key participants in the federal criminal justice process.

#### **Strategies to Achieve the Objective**

*Ensure that all federal law enforcement officers and prosecutors are trained in victim/witness responsibilities.*

Law enforcement officers are the first contact most victims and witnesses have with the federal judicial system. Having law enforcement officers who are aware of victims' rights and the services that should be provided reinforces the Department's concern for victims and witnesses. The Department trains federal law enforcement officers and prosecutors in victim/witness responsibilities, as required by the *Attorney General Guidelines for Victim and Witness Assistance*.

*Ensure 100% compliance with the provisions set forth in the Attorney General Guidelines for Victim and Witness Assistance.*

The *Attorney General Guidelines for Victim and Witness Assistance* set forth Department of Justice requirements and policies regarding the treatment of

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victims and witnesses. Among the directives outlined in the *Guidelines* are that the Government provide a separate waiting area for victims at court proceedings, intercede with victims' employers and creditors when requested, provide logistical assistance and information, attempt to consult with the victim about proposed plea negotiations, and protect victim privacy.

In addition, the *Guidelines* require that the prosecution provide notice of release or detention status, filing or dismissal of charges, schedules and changes to schedules, and terms of any negotiated pleas or trial verdict. Additionally, in certain types of cases, the prosecution must inform the victim of the right to be heard regarding the release of the accused and must notify a victim that a defendant may be tested for the Human Immunodeficiency Virus (HIV).

Proper notification allows the victim or witness the opportunity to prepare to participate in the judicial process. The prosecutor's case is enhanced by having a witness available and prepared to testify. Notification also gives victims and witnesses the opportunity to make preparations for absences from their jobs, family, and other responsibilities. The Department is developing a National Victim Notification System that will include a call center where victims can use a telephone to dial a toll-free number and receive an automated response regarding the current status of their case. This system will play an important role in bridging any gap in information provided to victims and witnesses during the different stages of the judicial process.

#### **Key Crosscutting Programs**

*Leadership assistance.* The Office for Victims of Crime in the Office of Justice Programs provides leadership and assistance in victim and witness matters to both Justice and non-Justice federal agencies, particularly the Departments of Treasury, State, Defense, and Interior.

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### **STRATEGIC OBJECTIVE 7.3**

#### **DEFENDANTS AND FUGITIVES**

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*Ensure the appearance of criminal defendants for judicial proceedings or confinement through secure transportation, and ensure the apprehension of fugitives from justice.*

The Department is responsible for enforcing federal warrants and apprehending fugitives from justice, including escaped federal prisoners; bail jumpers; parole, probation, and supervised release violators; and other fugitives wanted because of complaints or indictments. Additionally, the Department is responsible for the location and apprehension of fugitives wanted by agencies without power of arrest, and fugitives wanted by foreign countries and believed to be in the United States.

The apprehension of fugitives ensures the effective operation of the judicial system, reduces crime, and improves public safety. Additionally, the aggressive pursuit of fugitives serves as a deterrent for present and future defendants who may attempt to flee. Apprehending fugitives clears crowded court dockets, ensures that convicted defendants serve their sentences, and prevents fugitives from committing additional crimes. Finally, it ensures that resources expended by other agencies investigating crimes and prosecuting defendants are not wasted.

Currently there are thousands of fugitives from justice under the Department's area

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of responsibility. The USMS and the FBI are the two primary agencies within DOJ tasked with fugitive apprehensions. Their relationship and responsibilities are delineated in a joint memorandum of understanding.

The U.S. Marshals Service is also responsible for the safekeeping and transportation of federal prisoners in its custody. This includes the critically important function of providing in-district transportation of prisoners for judicial proceedings, legal hearings, meetings with attorneys, and trials, as well as for out-patient medical care and hospitalization, when required. This function consumes an enormous amount of deputy U.S. marshal resources, in that prisoners must be produced in a timely fashion to meet court schedules. In FY 2000, the USMS completed more than 500,000 in-district prisoner productions.

In addition to the daily local transportation of prisoners to various legal proceedings and meetings, the USMS also operates the Justice Prisoner and Alien Transportation System (JPATS). JPATS was created in 1995 by the merging of the USMS and INS air transportation fleets. JPATS is responsible for moving all federal prisoners and detainees whether in the custody of the USMS, BOP, or INS. In fiscal year 1999, JPATS began operating as a revolving fund activity with operating costs being reimbursed by customer agencies on a cost per seat charge. Additionally, JPATS provides repatriation movements overseas to return illegal aliens to their homelands; reimbursement of repatriation movements is provided by INS.

### **Strategy to Achieve the Objective**

*Focus on apprehending Most Wanted and Major Case fugitives.*

Locating and apprehending the 15 Most Wanted, Major Case, and other violent fugitives are the main priorities of the USMS fugitive program. These fugitives may consist of terrorists and material witnesses to terrorism, along with the worst narcotics traffickers and most violent felons wanted by federal, state, local, and foreign law enforcement agencies. They often have lengthy criminal histories and are likely to commit additional crimes if not apprehended in a timely manner.

Like the USMS, the FBI works closely with other federal agencies, as well as state and local law enforcement in its quest for wanted fugitives. The recent expansion of the Bureau's Legat Program has increased the effectiveness of FBI field offices to coordinate international fugitive investigations.

The Department will continue to elicit the public's assistance in fugitive apprehensions through increased media publicity. Currently, the FBI and USMS both maintain Most Wanted lists that receive extensive media attention. Both also will continue to maintain Internet web sites which display the most significant fugitives, and participate in several national television shows, such as *America's Most Wanted*, to profile the most dangerous or significant fugitives. These agencies also distribute wanted flyers to police departments and other agencies nationally.

### **Key Crosscutting Programs**

*Fugitive warrants.* During the past decade, the USMS has entered into MOUs with a number of federal law enforcement agencies which have provided the USMS the administrative and investigative responsibility for their fugitive warrants. These agencies include the U.S. Customs Service, Air Force Office of Special Investigations, Internal Revenue Service, Naval Criminal Investigative Service,

various Offices of the Inspector General, and others. These MOUs allow the participating agencies to take advantage of the experience and expertise of the USMS in fugitive matters, and to free their agents to investigate additional crimes.

*OCDETF.* The USMS also participates in the Organized Crime Drug Enforcement Task Force program, where it is responsible for the location and apprehension of most OCDETF fugitives, including the most serious drug offenders.

*Fugitive Task Forces.* Additionally, through its network of 89 interagency fugitive task forces located throughout the United States, the USMS assists other federal, state, and local law enforcement agencies in an effort to locate fugitives wanted for violent crime and drug offenses. These task forces cleared over 24,000 federal, state, and local warrants in 2000.

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## STRATEGIC OBJECTIVE 7.4

### BANKRUPTCY

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*Protect the integrity and ensure the effective operation of the Nation's bankruptcy system.*

The Department, through the U.S. Trustee Program (USTP), oversees and administers the bankruptcy caseload and combats bankruptcy fraud. The USTP works to ensure that cases are administered promptly, effectively, and fairly. Timely administration of bankruptcy cases is critical to the integrity of the bankruptcy system and the maximum distribution of funds to creditors.

In the United States, federal bankruptcy law allows individuals, businesses, corporations, farmers, and municipalities to file bankruptcy. Filing bankruptcy is a means of relief from debts owed to creditors through the liquidation of assets, reorganization, or through the development of a scheduled repayment plan, where the debts originated due to uncontrollable events, failed business investments, or other risks taken, placing them in an untenable position with creditors. Since 1996, bankruptcy filings in America have been increasing at a significant rate. In 1996, total bankruptcy filings were just under 1 million (934,689). By 2000, total filings had increased to 1,203,412. This represents a 29 percent increase in the last 4 years with the greatest growth attributed to individual liquidation filings.

#### **Strategies to Achieve the Objective**

*Provide administrative support to move cases efficiently and effectively through the bankruptcy process.*

Trustees are fiduciaries of bankruptcy estates who administer cases under Chapters 7, 12, and 13 of the Bankruptcy Code. The USTP must regulate and monitor the activities of private trustees to ensure that cases are processed in a timely and efficient manner. Such oversight must identify problems sufficiently early in cases and provide intervention as necessary to prevent cases from being held up, since the longer the case is in the system the less money is available for creditors.

*Ensure that parties adhere to standards of the law and police for embezzlement, fraud, and other abuses.*

The USTP is vigorously combating abuse of the bankruptcy system through the use of civil enforcement remedies found in Sections 707, 727, and 110 of the Bankruptcy Code. These enforcement provisions authorize the USTP to file a

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motion for dismissal for substantial abuse, file an objection to a debtor's bankruptcy discharge, and pursue penalties against individuals who negligently or fraudulently prepare bankruptcy petitions. In addition, the U.S. Trustees refer instances of possible criminal conduct to the U.S. Attorney and assist in prosecutions. The USTP develops criminal referrals and, in cooperation with other federal agencies which have the authority to investigate and prosecute criminal bankruptcy violations, helps formulate responses to address bankruptcy fraud.

*Maximize the return of estate assets to creditors.*

The USTP acts as the watchdog of the bankruptcy system and ensures that the more than \$5 billion in bankruptcy estate assets that flow through the system annually are properly handled. Therefore, while protecting the rights of debtors, the USTP appoints and evaluates the performance of private trustees to ensure prompt administration and maximize the return of estate assets to creditors. In Chapter 7, 12, and 13 cases, the Program tracks the costs of trustee operations, which include monitoring fees associated with the use of professionals to ensure that administrative fees do not erode bankruptcy estate assets. The Program tracks the distributions to creditors through the use of the Distribution Report for Closed Asset Cases. This tool enables the USTP to identify trends and potential problems, as well as to provide more accurate and reliable information regarding distributions to creditors. In Chapter 11 cases, the USTP monitors the progress and financial condition of a debtor and acts promptly to file a motion to dismiss or convert the case to a Chapter 7 if the debtor is not complying with the Bankruptcy Code or the debtor is unable to reorganize. The role of the U.S. Trustee is especially important in smaller Chapter 11 cases in which creditors lack a financial stake to participate actively. These efforts also result in maximizing returns to creditors.

*Improve the accuracy of data and information on bankruptcy case administration and operation in order to assess performance.*

Currently, information about the United States Trustee's bankruptcy administration is gathered through periodic data calls, random surveys, and regular consultations with United States Trustees. The process of gathering information is cumbersome, and time to analyze the information makes tracking of performance difficult. The enhancement of the United States Trustee Automated Case Management System will improve the quality and timeliness of the information received, reduce the burden on staff of collecting and analyzing the data, and allow performance review to occur regularly rather than sporadically.

### **Key Crosscutting Programs**

*National Bankruptcy Fraud Working Group.* The USTP plays a leading role in the National Bankruptcy Fraud Working Group (NBFWG), comprising members from the U.S. Attorney's Offices, DOJ Criminal Division, FBI, IRS Criminal Investigation Division, Postal Inspection Service, U.S. Trustee's Offices and the Executive Office for U.S. Attorneys. The NBFWG coordinates a national response to bankruptcy fraud issues, facilitates pro-active national investigations, assists districts in establishing local bankruptcy fraud task forces, tracks all bankruptcy fraud referrals and convictions, and develops training programs on bankruptcy fraud. Sixty of the Program's field offices have established local bankruptcy fraud



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working groups led by U.S. Attorneys. In addition, the Program has undertaken projects in conjunction with the Identity Theft Subcommittee of the Attorney General's Council on White Collar Crime and joined the Internet Fraud Working Group.

*Electronic Case Filing.* Another crosscutting program is electronic case filing, which resulted from the Administrative Office of the U.S. Courts' requirement that all cases be electronically filed nationwide by the close of FY 2002. The AOUSC developed a Case Management/ Electronic Case Filing (ECF) System, which allows attorneys to file petitions and other electronic documents with designated Courts through the Internet using a standard web browser. ECF is a major DOJ initiative since all litigating components will be required to use it. The USTP's need for ECF access will be great due to its administrative role in moving cases efficiently through the bankruptcy system. The USTP is involved in every case and does not have the discretion to decline them.

## MANAGEMENT CHALLENGES

The Department does not face any mission-critical management problems or challenges which would significantly hinder the Department from achieving this strategic goal.