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ONE HUNDRED TENTH CONGRESS

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

COMMITTEE ON THE JUDICIARY

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February 28, 2008

The Honorable John Spratt  
Chairman  
Committee on the Budget  
207 Cannon House Office Building  
Washington, DC 20515

The Honorable Paul Ryan  
Ranking Member  
Committee on the Budget  
B71 Cannon House Office Building  
Washington, DC 20515

Dear Chairman Spratt and Ranking Member Ryan:

Pursuant to section 301(d) of the Congressional Budget Act of 1974 (2 U.S.C. § 632(d)) and House Rule X, clause 4(f), we are submitting the views and estimates of the Committee on the Judiciary on the President's budget proposal for Fiscal Year 2009. These views and estimates encompass a broad range of programs within the Judiciary Committee's jurisdiction. We hope that they provide valuable guidance to your Committee as you prepare the budget resolution. Please feel free to contact us or our staffs should you have any questions or concerns.

Sincerely,



John Conyers, Jr.  
Chairman



Lamar Smith  
Ranking Member

Enclosure

COMMITTEE ON THE JUDICIARY  
VIEWS AND ESTIMATES FOR FISCAL YEAR 2009

**MANDATORY SPENDING**

**ADMINISTRATIVE CONFERENCE OF THE UNITED STATES**

The Administrative Conference of the United States (“ACUS”), a nonpartisan body that made many cost-saving recommendations that improved the efficiency and efficacy of regulatory law and practice, was reauthorized at the behest of the Committee on the Judiciary pursuant to Public Law 108-401. It is anticipated that ACUS will be further reauthorized in the 110th Congress and appropriated \$3.3 million for FY 2009.

**RADIATION EXPOSURE COMPENSATION FUND**

The National Defense Authorization Act for FY 2005 placed the funding for payment to workers covered under Section 5 of Radiation Exposure Compensation Act into the Energy Employees Occupational Illness Compensation Program, a mandatory and indefinitely funded program. Additionally, the Consolidated Appropriations Act of 2005 included language changing the funding of the RECA Trust Fund to mandatory and indefinite for the remaining claims paid out of that fund, and thus the program is no longer subject to appropriated funds. Administrative costs for the running of this program have now been included with the general administrative funds for the Civil Division.

**FOREIGN CLAIMS SETTLEMENT COMMISSION**

There has been little significant change in the operation of the Foreign Claims Settlement Commission. The budget request for the Foreign Claims Settlement Commission for FY 2009 is \$1.8 million. This is a slight increase above the \$1.6 million appropriated for fiscal year 2007, and is supported by the Committee.

**FEDERAL JUDICIARY**

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

The Committee supports the appropriation request of \$6.72 billion for FY 2009. In addition, the Committee intends to consider the adequacy of the salaries of Federal judges.

## **PRIVATE CLAIMS LEGISLATION**

The Committee anticipates it will consider private bills for claims against the United States. The Committee believes that \$5 million was sufficient in 2006, 2007, and 2008 and believes that this figure, based on an analysis of private claims bills passed by recent Congresses, continues to be sufficient to meet the unanticipated costs associated with private claims legislation.

## **DISCRETIONARY SPENDING**

### **CONSOLIDATION OF COMPONENT BUDGETS**

The Committee remains concerned regarding the Department's proposal to consolidate the budgetary submissions of the sections of various divisions and components, so that, for budgeting purposes, dollars are not assigned to specific sections. The Committee has specific interests in the work of many sections and is concerned that such consolidation could impair oversight of how the various functions of each division and component are prioritized and funded. The Committee notes that Congress rejected a similar Department proposal to consolidate submissions in the FY 2008 budget.

### **ANTITRUST DIVISION (DOJ)**

The President requests \$150.591 million for FY 2009, a \$2.772 million increase from the FY 2008 enacted level of \$147.819 million. The Committee supports the important work of the Antitrust Division and supports the increase. In light of the importance of the Division's various activities, the Committee encourages the Department to use the increased funding to pursue priorities important to Congress and the American people, such as merger enforcement to preserve competitive market structure, and civil non-merger enforcement to deter and remedy anticompetitive business conduct, as well as criminal prosecution of cartel activity.

### **EXECUTIVE OFFICE FOR U.S. ATTORNEYS (DOJ)**

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

The Administration's FY 2009 budget request for U.S. Attorneys is \$1.831 billion, an almost \$100 million increase over the FY 08 appropriation of \$1.748 billion. While the FY 2007 enactment funded 10,582 permanent positions, and the expected FY 2008 appropriation would

fund 11,699 permanent positions, the Administration proposes to fund 11,818 permanent positions with the FY 2009 funding. Some of the increase is targeted to the Department's efforts with respect to the Southwest Border Initiative (83 permanent positions and \$8.4 million) to combat violent crime, gun smuggling, and illicit drug trafficking.

The Committee fully appreciates the role of the U.S. Attorneys as the chief law enforcement representatives of the Department of Justice and is committed to ensuring they are given the necessary resources to fulfill their responsibilities. To that end, we recommend additional funding beyond that requested by the Administration given that many U.S. Attorney's Offices are suffering from significant budget shortfalls.

### **U.S. TRUSTEE PROGRAM (DOJ)**

The U.S. Trustee Program is charged with supervising the administration of bankruptcy cases and trustees. Its mission is to protect and preserve the integrity of the U.S. bankruptcy system by regulating the conduct of parties, ensuring compliance with applicable laws and procedures, bringing civil actions to address bankruptcy abuse, securing the just and efficient resolution of bankruptcy cases, and referring bankruptcy crimes for prosecution. The Program is self-funded through user fees paid by participants in the bankruptcy system. The Program's appropriation is offset by fees it collects during the fiscal year. These monies are paid into the U.S. Trustee System Fund. Approximately 49.4% of the Program's funding is subsidized by quarterly fees paid by Chapter 11 debtors. The remaining 50.6% of its funding is derived from a portion of filing fees paid to commence bankruptcy cases, interest earnings, and other miscellaneous revenues.

The Administration's FY 2009 request of \$217.416 million reflects an increase of \$7.653 million over the FY 2008 appropriated level of \$209.763 million and \$5.736 million less than the FY 2007 enacted level of \$223.152 million. This increase is principally comprised of adjustments to base consisting of \$4.6 million (representing expenditures for a 2.9% pay raise for FY 2009 and a 3.5% annualized pay raise for FY 2008) and \$2.7 million for rent. The increase does not include any program enhancements. As a result of the FY 2008 appropriation enacted level, the Program initiated a hiring freeze for the purpose of eliminating 20 positions and has suspended debtor audits. The President's FY 2009 budget request eliminates a requirement that \$20 million of the U.S. Trustee appropriation must come from prior unobligated balances. The Committee supports the requested increase.

### **HELP AMERICA VOTE ACT**

There are perhaps few greater priorities for the FY 2009 budget than continued federal support for election reform. The 2000 and 2004 elections exposed a number of deficiencies in our electoral system, which have undermined the faith of many Americans in our democracy. The 2006 mid-term elections further exposed deficiencies in our voting systems. As a result of

this record, the Committee will continue to examine the implementation of the Help America Vote Act of 2002 (“HAVA”) to determine its impact on the prevention of voting irregularities.

The Administration has requested \$16.679 million for the Election Assistance Commission under HAVA, a \$167,000 increase over the amount appropriated for FY 2008. HAVA authorized at total of \$3.9 billion from FY 2003 through FY 2005, but previous Congresses appropriated only \$3 billion of that amount. Because of the critical importance of election reform and the implementation of HAVA requirements, the Committee recommends that HAVA programs receive the remaining \$900 million to achieve the amount fully authorized under HAVA at enactment.

## **OFFICE OF THE INSPECTOR GENERAL (DOJ)**

The Office of the Inspector General (“OIG”) is an independent office within the Justice Department that is charged with reviewing federal legislation and investigating Department waste, fraud, and abuse. For FY 2009, the Administration provides \$75.681 million, a \$5.08 million increase over the \$70.6 million appropriated for FY 2008. Part of the increase will fund program enhancements for 16 positions – 6 program analysts, 4 auditors, 2 attorneys, 2 criminal investigators, and 2 operations research analysts – for Counterterrorism Oversight. The Committee supports the work of the OIG and the recommended budgetary increase.

## **NATIONAL SECURITY DIVISION (DOJ)**

The National Security Division was authorized by Congress in the USA PATRIOT Improvement and Reauthorization Act of 2005, Public Law 109-177, which was enacted in 2006. The National Security Division consists of the elements of the Department of Justice (other than the Federal Bureau of Investigation) engaged primarily in support of the intelligence and intelligence-related activities of the United States Government, including: (1) the Assistant Attorney General for National Security, (2) the Office of Intelligence Policy and Review, (3) the counterterrorism section, (4) the counterespionage section, and (5) any other office designated by the Attorney General.

For FY 2009, the Division is seeking \$83.789 million, a \$10.4 million increase over the FY 2008 enacted level of \$73.37 million to hire 38 additional full time employees. This would bring the total number of full time employees to 346, including 236 attorneys.

## **GENERAL LEGAL ACTIVITIES (DOJ)**

### **Office of Solicitor General**

The Office of Solicitor General supervises and processes all appellate matters and represents the Government before the Supreme Court. For FY 2009, the Administration requests \$10.44 million, \$560,000 more than the \$9.88 million enacted in FY2008. No program

enhancements or additional personnel are sought by the Administration. The Committee considers the work of the Solicitor General an important element of the role played by the Department of Justice and expects to consider whether the Administration's request is sufficient to insure the Solicitor General's work is adequately supported.

### **Civil Division**

The Civil Division represents the United States, its departments and agencies, Members of Congress, Cabinet officers, and other Federal employees in litigation in State and federal courts. Its litigation reflects the diversity of government activities, involving, for example, the defense of challenges to Presidential actions; national security issues; benefit programs; energy policies; commercial issues such as contract disputes, banking insurance, patents, fraud and debt collection; all manner of accident and liability claims; spent nuclear fuel litigation; and criminal violations of the immigration and consumer protection laws. Each year, Division attorneys handle thousands of cases that collectively involve billions of dollars in claims and recoveries. The Division litigates significant policy issues, which often rise to constitutional dimensions, in enforcing and defending various Federal programs and actions.

For FY 2009, the Administration requests \$270.431 million for the Civil Division, which represents a \$20.317 million increase over the FY 2008 enacted level of \$250.114 million and a \$40 million increase over the expected FY 2007 enacted level of \$208.311 million. The Administration requests \$47 million for investigating and prosecuting promoters of tax, procurement, and other corporate fraud.

The Committee considers the work of the Civil Division crucial to the mission of the Department of Justice. The Committee will carefully consider the program increases sought by the Administration, as well as the general activities of the Division, to insure that it is fully able to perform its mission within the Department.

### **Environment and Natural Resources Division**

The Environment and Natural Resources Division of the Justice Department ("ENRD") is charged with a wide variety of important activities related to the environment and our nation's natural resources, including, for example, litigation concerning the prevention and clean-up of pollution, defense against environmental challenges to federal programs and activities, the protection, use, and development of national natural resources and public lands, wildlife protection, Indian rights and claims, and the acquisition of private property for federal use.

The Administration requests \$103.093 million for FY 2009, which is slightly more than the \$99.365 million enacted for FY 2008 spending. The Committee is supportive of ensuring that ENRD has sufficient resources to properly fulfill its mission within the Department.

## **Civil Rights Division**

The Civil Rights Division of the Department of Justice is the primary institution within the Federal government responsible for enforcing Federal statutes prohibiting discrimination on the basis of race, sex, disability, religion, and national origin. The Division enforces Federal laws prohibiting discrimination in education, employment, credit, housing, public accommodations, voting, and certain federally funded and conducted programs. The Division has eleven sections: Appellate, Coordination and Review, Criminal, Disability Rights, Educational Opportunities, Employment Litigation, Housing and Civil Enforcement, Office of Special Counsel for Immigration Related Unfair Employment Practices, Special Litigation, Voting, and Administrative Management.

The Administration has requested \$123.151 million for FY 2009, which is inclusive of 713 positions and 715 direct FTE. Y 2007. This represents no program increases over the FY 2008 enacted level. Criminal enforcement represents 100 FTE and \$13.953 million of the proposed budget. Civil enforcement represents the balance of the budget at 615 FTE and \$109.198 million.

As a general matter, the Committee recommends that funding for each section in the Civil Rights Division be maintained at a level that permits it to carry out its critical mission of guaranteeing equality under the law.

## **EXECUTIVE OFFICE FOR IMMIGRATION REVIEW (DOJ)**

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

The FY 2009 budget request for EOIR is \$261.4 million, \$27 million over the enacted FY 2008 spending level. This amount includes \$10 million from the Southwest Border Enforcement Initiative. Of the \$10 million, \$8.3 million will be used to install and maintain a Digital Audio Recording (DAR) system for immigration courts nationwide. The remaining \$1.7 million will be used for the Immigration Review Information Exchange System (IRIES), by which EOIR will share information with other federal agencies such as the Department of Homeland Security and the DOJ’s Civil Division. The Administration is not seeking additional full-time personnel.

The Committee is concerned that the Administration is not requesting additional full-time personnel for EOIR, despite the increase in immigration enforcement personnel and activities that will likely result in an increased workload for EOIR. For example, the number of Immigration and Customs Enforcement Fugitive Operations Teams (FOTs) has increased from

15 teams in 2005, to 50 teams in 2006, to 75 teams in 2007.<sup>1</sup> That number will grow to 104 teams in FY 2008.<sup>2</sup> ICE also initiated 140% more removal proceedings for criminal aliens in FY 2007 than in FY 2006.<sup>3</sup> Furthermore, ICE removed 45% more aliens in FY 2007 than in FY 2006.<sup>4</sup> Likewise, ICE has greatly increased other types of enforcement. For example, administrative arrests in worksite enforcement actions have grown from 485 in FY 2002 to 4,077 in FY 2007.<sup>5</sup>

In FY 2008, the Administration requested funding for twenty additional Immigration Judges and ten staff attorneys and support staff to handle the increase in EOIR's workload. The Committee encourages EOIR to consider whether additional personnel may be necessary in FY 2009 to ensure that it can keep pace with the increased immigration enforcement efforts, so that respondents in removal proceedings receive due process and that potentially dangerous aliens are removed in a timely manner. The Committee recommends that EOIR be funded at a level that will enable it to achieve these goals.

The Committee notes that EOIR plans to change the manner in which it makes hearing transcripts, to digital recording devices. While these will be an improvement over the old audio cassette tape machines it has been using, the Committee encourages EOIR to consider using court reporters as a more reliable means of ensuring accurate transcription of proceedings for review by the Bureau of Immigration Appeals or the courts, while also enabling the Immigration Judges to concentrate more fully on the proceedings.

## **COMMUNITY RELATIONS SERVICE (DOJ)**

The Community Relations Service (CRS) was established under Title X of the Civil Rights Act of 1964 (42 U.S.C. 2000g *et seq.*). Since 1964, CRS has been responsible for the Prevention and Conciliation of Community Disputes Program, which provides conciliation and mediation assistance to communities with the goal of achieving peaceful and voluntary resolution of racial and ethnic conflict. The Administration requests \$9.873 million for CRS in FY2009, an increase of \$79,000 from the FY 2008 appropriation of \$ 9.794 million. The Committee recommends that CRS be funded at a level necessary to achieve its important objectives.

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<sup>1</sup> *U.S. Immigration and Customs Enforcement Fiscal Year 2007 Annual Report*, iv, at [http://www.ice.gov/doclib/about/ice07ar\\_final.pdf](http://www.ice.gov/doclib/about/ice07ar_final.pdf).

<sup>2</sup> Consolidated Appropriations Act, 2008, Pub. L. No. 110-161 (2007).

<sup>3</sup> *Budget in Brief*, Department of Homeland Security, FY 2009, at 36.

<sup>4</sup> *Id.*

<sup>5</sup> *ICE Fiscal Year 2007 Annual Report*, at 8.



## **FEDERAL BUREAU OF INVESTIGATION (DOJ)**

The Federal Bureau of Investigation (“FBI”) is the nation’s largest federal law enforcement agency, charged with investigating terrorism, cybercrimes, public corruption, white collar crime, organized crime, civil rights violations, and other federal offenses. For FY 2009, the Administration has requested \$7.1 billion, an increase of \$600 million or 9% over the FY 08 appropriation. The Committee supports the FY 2009 request as well as increased funding for National Instant Criminal Background Check System (“NICS”). It has been estimated that more than 40 million records are missing from the various databases that make up NICS, which is the only national database that flags individuals who are precluded under current law from purchasing or possessing a firearm.

On January 8, 2008, after having passed both the House and Senate unanimously, the President signed into law H.R. 2640, NICS Improvement Amendments Act of 2007 (“Public Law 110-180”). This Act authorizes funds for states to provide NICS with the names of individuals disqualified under current law from possessing a firearm. The Committee supports funding, \$187.5 million, to implement this Act as part of the FY 2009 appropriations.

The Committee remains concerned about the backlog of FBI name checks that are requested by the U.S. Citizenship and Immigration Services (“USCIS”) for various immigration applications. It is estimated that some 300,000 applications are awaiting FBI name checks. Of these, 130,000 have been pending for more than six months while 46,000 of them have been pending for more than two years. The FBI charges USCIS a fee for these name checks, which USCIS covers by charging a fee to applicants. The FBI and USCIS fees were increased in 2007. In addition, Congress appropriated additional funds to USCIS to provide to the FBI, as a supplement to the fees, in order to help reduce the backlog. The Committee supports the additional \$12.4 million in the USCIS FY 2009 budget request to continue efforts to reduce the name check backlog at FBI, and will conduct oversight to ensure the money is used in a manner that appropriately takes into account both national security and efficiency concerns.

## **U.S. MARSHALS SERVICE (DOJ)**

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

For FY 2009, the Administration has requested \$933 million for FY 2009, a \$67 million increase over the \$864.2 million enacted for 2008. The Administration's proposed funding

covers only one program enhancement, namely, 73 positions for the Southwest Border. Congress has approved \$20 million for court security. The USM also needs an additional \$7.8 million to implement the Act and \$5 million for the Fugitive Safe Surrender Program. The Administration did not include funding for these programs in its request. The Committee recommends that these monies be added to the Administration request, for a total of \$966 million.

#### **BUREAU OF ALCOHOL, TOBACCO, FIREARMS, AND EXPLOSIVES (DOJ)**

The Bureau of Alcohol, Tobacco, Firearms, and Explosives (“ATF”) requires an additional \$19.6 million over the current recommendation to keep current services level as requested in the FY 2008 President’s Budget. The FY 2008 enacted level is \$984 million.

The Committee supports \$19.7 million for 100 positions and 50 FTE for firearms and explosives law enforcement efforts to meet operational staffing requirements. The Committee also supports \$500,000 for an Automated Cigarette Network (ACN) Initiative which would enable ATF to track and report interstate cigarette sales information as required by the amended Contraband Cigarette Trafficking Act (CCTA). The ACN database would provide automated services such as data collection and reporting to ATF, the Tax and Trade Bureau, State Tax Administrators and State Attorneys General. The ACN will enhance efforts in combating the diversion of tobacco products into illicit markets.

#### **DRUG ENFORCEMENT ADMINISTRATION (DOJ)**

For FY 2009, the Administration has requested \$1.937 billion for the Drug Enforcement Administration (“DEA”), a \$ 79 million increase over the enacted FY 2008 appropriation of \$1.858 billion. The Committee believes that funding in the amount of \$2.05 billion is needed, a \$192 million increase from last year. Fifty additional agents, concentrated along the Southwest Border, are needed and will cost \$13.8 million. Significant increases in the number of Border Patrol agents already has occurred, and the DEA needs additional positions to enable them to participate in coordinated enforcement actions in the arrival zone areas and investigate the increased referral of drug cases. These positions also are necessary to address the current shortfall created by DEA’s hiring freeze from August 2006 to December 2007. Additional funding is critically needed for radios and helicopters. Radios have been significantly underfunded for several years, in the amount of billions of dollars, and, as recognized by a recent OIG report, has become a safety risk for our agents.

#### **OFFICE OF JUSTICE PROGRAMS (DOJ)**

For the Office of Justice Programs, the FY 2009 Administration request reflects both a reduction in funding and a shift in priorities from previous Administrations. The Committee opposes the President’s proposal to cut funding for these important federal programs that provide grants to states to combat crime, violence against women, and assist in the war on terror. These proposed cuts should be re-examined given the need to concentrate state and local funding aimed

at reducing violent crime, improving state and local law enforcement's ability to respond to a terrorist threat or attack, and the need to address sexual exploitation and abuse of children and women in our communities.

### **Community-Oriented Policing Services**

Community-Oriented Policing Services ("COPS") is an important tool in the effort to fight crime. Implemented in 1994, COPS focuses on local strategies to fight crime and has been praised by federal, state, and local law enforcement and political officials. The Administration's FY 2009 budget proposal requests \$4 million towards this effort under a new program, Community Policing Development. This is a significant cut compared to the FY 2008 enacted level of \$587 million for COPS. The Violence Against Women and Department of Justice Reauthorization Act of 2005, Public Law 109-162, restructured the COPS program to allow more flexibility in COPS program activities. The Committee will continue to conduct oversight to ensure that the COPS program is funded at an appropriate level.

### **Office of Violence Against Women**

The Justice Department's Office on Violence Against Women is charged with administering the Violence Against Women Act ("VAWA"). VAWA plays an important role in providing grants to help state, tribal, and local governments develop and strengthen effective law enforcement and prosecution strategies to combat violent crimes against women; develop and strengthen victim services in cases involving violent crimes against women; encourage arrest policies, distribute rural domestic violence and child abuse enforcement grants; aid victims of domestic violence, stalking, or sexual assault; reduce abuse and domestic violence; provide safe havens for children of abuse; and training for judges and court personnel.

The Committee notes that the VAWA was reauthorized as part of the larger Department of Justice reauthorization legislation, which was signed into law by the President on January 5, 2006, Public Law 109-162. The Act included new VAWA grant programs and important changes to current law to improve the administration and operation of existing programs.

The Administration requests \$280 million for FY 2009 for this Office, which is much less than the \$683 million authorized by VAWA for Justice Department-administered programs. This would be a \$120 million cut from the \$400 million appropriated for FY 2008. In addition, the budget request proposes that all of the individual, competitive grant programs within VAWA be consolidated into one competitive program open to all eligible grantees. The Committee is concerned about these programs being funded at an appropriate level and recommends funding at the levels authorized by Congress.

### **Juvenile Justice**

OJP administers several grants under the juvenile justice umbrella. In FY 2008, \$383.5

million was appropriated for juvenile justice programs.

The Juvenile Accountability Block Grant Program (“JABG”) has helped states and localities throughout the country reform and strengthen their juvenile justice system. The Committee reauthorized JABG through FY 2010. The program passed both chambers of Congress with near unanimous support and was supported by law enforcement and all entities concerned about juvenile justice. It was funded at \$250 million in the past and was authorized at \$350 million a year. The Committee notes that the Consequences for Juvenile Offenders Act of 2002, reauthorized in the Department of Justice Reauthorization Act, expanded the purposes of these grants and authorizes grant funding to be awarded to states through OJP to encourage states to adopt graduated sanctions programs for juvenile offenders. Congress appropriated \$51.7 million for JABG in FY 2008. Local officials and advocates cite the rises in juvenile crimes we are seeing as resulting in large measure from the drastic reduction in funding for this program in recent years. Therefore, the Committee believes it should be funded at the authorized level.

Project ChildSafe is a Federal, state, and local partnership designed to ensure that child safety locks are made available for every handgun in America. Such locks prevent the unauthorized use and inadvertent discharge of firearms. In the past, this program has received support from the Judiciary Committee and the Administration. A component of the Bush administration's "Project Safe Neighborhoods" gun violence prevention initiative, it is supported by the firearms industry, DOJ, and the National Shooting Sports Foundation (NSSF), which administers the program. In FY 2007, the program received \$1 million. It did not receive any funding in FY 2008. The Committee recommends funding at an appropriate level.

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

For FY 2009, the Administration proposes to merge all of the current state and local law enforcement programs into three: Violent Crime Reduction Partnership Initiative Program, Byrne Public Safety and Protection Program, and Community Policing Development. These programs are to be funded at \$200 million, \$200 million, and \$4 million respectively. The Committee supports more robust funding for state and local first responders. Accordingly, the Committee recommends funding to at least the FY 2008 levels.

### **Byrne Justice Assistance Grants**

The Byrne Justice Assistance Grants (“Byrne JAG”) program provides direct grants to states and local communities to fund local drug task forces. It is the only source of federal funding for multi-jurisdictional efforts to prevent, fight, and prosecute drug-related and violent crime. It funds drug treatment, keeps our communities safe by increasing the number of officers on the street, and gives local law enforcement officers the tools they need to stop the production and distribution of illegal drugs.

With the help of Byrne JAG funding, our state and local law enforcement officers have

made tremendous strides in combating illegal drugs. A recent study found that Byrne JAG funded programs have led to 220,000 arrests, the seizure of 54,000 weapons; and destruction of 5.5 million grams of methamphetamine, and the elimination of almost 9,000 methamphetamine labs. The Byrne JAG grants have been proven to be effective and critical to public safety.

Between FY 2007 and FY 2008, funding for the program was cut by 67% cut. States and localities are very concerned that this cut has compromised their ability to fight crime. The Committee recommends \$1 billion for FY 2009 to help make up for last year's shortfall.

### **DNA Backlog Elimination**

The Administration is proposing to transfer the DNA Initiative to the new Byrne Public Safety and Protection Program for which funding is requested at \$200 million. The Committee is concerned that the Administration's proposed budget does not identify what portion of the \$200 million would be allocated to the DNA Initiative. In FY 2008, Congress appropriated \$152.272 million. The Committee recommends funding above this level.

This technology is crucial and as it is increasingly used, more and more departments are amassing biological evidence for use in criminal cases. Nevertheless, using the technology and storing the evidence is costly.

Much biological evidence has been cleared through the President's DNA Initiative over the past few years. As more departments explore the technology and its superiority, however, the backlog has remained level because of the new evidence retained. In FY 2008, \$147.4 million was funded under the Debbie Smith Act. The Committee recommends funding above \$200 million to help address the increasing number of police departments and prosecutors using DNA technology to solve crimes.

The Innocence Protection Act (title IV of the Justice for All Act) provides funding for post-conviction DNA testing. Funding for this initiative was \$4.9 million in FY 2008 and should remain at that level for FY 2009.

The Office of Justice Programs requested updated language in the FY 2008 Consolidated Appropriations Act to enable them to grant the money to states that heretofore could not qualify. Consequently, the Committee expects the funds to be exhausted this year. The Committee strongly supports funding this program at full levels.

### **Services for Victims of Crime**

The Administration is proposing to consolidate various programs currently under OJP's Justice Assistance umbrella, including services for victims of crime. The Committee plans to review the Department's efforts to support crime victims and will work to ensure that these efforts are fully funded and prioritized by the Department.

## **TRANSPORTATION SECURITY ADMINISTRATION (DHS)**

For the Transportation Security Administration ("TSA"), the Administration is requesting \$7.1 billion for FY 2009. This is an increase of \$286.5 million over the FY 2008 enacted amount. The Budget requests an increase of \$32 million with respect to the Secure Flight Program. With respect to additional funding of this program, the Committee has concerns with the operational requirements regarding data retention, data security, privacy, and mechanisms for redress prior to its implementation on other than a test basis.

## **U.S. CUSTOMS AND BORDER PROTECTION (DHS)**

The Department of Homeland Security's U.S. Customs and Border Protection ("CBP") is the federal agency principally responsible for the security of our Nation's borders, both at and between the ports of entry along the border and at our Nation's sea- and airports. The Committee supports the missions of the CBP, both at and between the ports of entry. Inspectors and Border Patrol Agents provide a critical shield against the entry of those who would enter the U.S. unlawfully and serve as an essential component of our immigration-enforcement system. The FY 2009 budget request seeks \$10.9 billion for CBP (\$9.5 billion in appropriated funds and \$1.5 billion in mandatory fee collections). The Committee notes that the President's request appears to be only a modest increase of \$100 million from the FY 2008 enacted level of \$10.8 billion. However, \$1.5 billion of the FY 2008 enacted level is "emergency appropriations" funding.

Of the \$10.9 billion request, \$442 million of the funds would be used for hiring and equipping 2,200 new Border Patrol agents and provide 441 operational/mission support personnel. The Committee notes its concern regarding the high rate of attrition for Border Patrol agents and the increasing ratio between new agents and experienced agents who can appropriately manage the new agents.

In addition, the Committee is concerned about the lack of new infrastructure and improvements of Border Patrol facilities at a time when the Border Patrol workforce is dramatically increasing. The Committee supports \$149.5 million in funding for Border Patrol facilities. The Committee also supports the use of funds to provide training for border patrol agents on how to deal humanely with those aliens who are apprehended at the border, as well as on efforts to minimize the deaths along the southwest border.

The Administration has designated \$775 million of the FY 2009 funds for border security fencing and related infrastructure changes. The CBP states that as of September 30, 2007, 154.7 miles of fencing have been built along the Southwest border with an additional 215 miles planned by the end of calendar year 2008, a portion of it on private property. The Committee notes the high level of opposition among private property landowners along the Southwest border who oppose the fence being placed on their property. In many cases, the federal government is having to resort to challenging landowners in federal court, a costly and time-consuming

endeavor.

In addition to CPB's immigration responsibilities, its components also play a critical role in confronting the law-enforcement challenges facing our nation. CBP's Interdiction and Security (Outbound) enforces U.S. export laws and regulations to prevent weapons of mass destruction from falling into the hands of criminals or terrorists. As part of this responsibility, the agency interdicts illicit proceeds from narcotics and other criminal activities in the form of unreported and smuggled currency.

Illicit currency is a critical element in the fight against terrorism, narcotics trafficking, and other criminal activities. The Border Patrol has the primary responsibility for drug interdiction between the land ports-of entry. It participates in numerous interagency drug task force operations with other Federal, State, and local law enforcement agencies through Operation Alliance along the southern border. The purpose of this program is to increase the effectiveness of the agents patrolling the border. Additionally, CBP has the largest Federal law-enforcement canine program in the nation, a program responsible for detection of narcotics, currency, explosives, chemicals, and other illegal contraband.

## **U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT (DHS)**

U.S. Immigration and Customs Enforcement ("ICE") is the largest investigative arm of DHS. Comprised of several components from the former Immigration and Naturalization Service ("INS"), the U.S. Customs Service, and the Federal Protective Service ("FPS"), the agency combines the investigative, detention, and removal, and intelligence functions of the former INS with the investigative and intelligence functions of the former Customs Service. The Administration is requesting \$5.7 billion for FY 2009 (\$5.4 billion in appropriated funds and \$312 million in mandatory fee collections). The Committee notes that the President's request appears to be a relatively modest increase of \$400 million from the FY 2008 enacted level of \$5 billion. However, \$500 million of the FY 2008 enacted level is "emergency appropriations" funding.

The Committee notes that the President's request zeroes out the comprehensive identification and removal of criminal aliens program created in the FY 2008 appropriations bill. The Committee recommends that ICE prioritize the appropriate removal of criminal aliens. The Committee recommends sufficient funding for the comprehensive identification and removal of criminal aliens program, in addition to sufficient funding to prioritize the removal of criminal aliens through the Criminal Alien Program and the Institutional Removal Program.

The President's request includes \$226 million for fugitive operations, a \$40 million increase from the FY 2008 enacted level (not including \$33 million in emergency appropriations); \$1.8 million for consolidated ICE agent training; and \$2.7 million for initial training of 200 State and local law enforcement officers and annual refresher training for 850 State and local law enforcement officers under the 287(g) program. The additional funding for

training those with responsibility for enforcing the immigration laws should not only strengthen the appropriate enforcement efforts but also reduce any incidence of mistaken detention, interrogation, and, in at least one instance the Committee is aware of, deportation of U.S. citizens.

The President's budget also includes \$1.7 billion in funding for custody operations that includes funding for 1,000 new detention beds and staffing. The Committee supports the addition of new detention beds and staffing to end the practice of "catch and release." The Committee hopes the additional funding will also better enable the provision of medical attention and care.

The Committee continues to support the alternatives to detention in appropriate circumstances.

### **U.S. CITIZENSHIP AND IMMIGRATION SERVICES (DHS)**

The Homeland Security Act created the U.S. Citizenship and Immigration Services ("USCIS") to administer the important immigration service functions described in the Immigration and Nationality Act, such as adjudicating naturalization and permanent residence applications. The USCIS total budget request for FY 2009 is \$2.7 billion (\$151 million in appropriated funds and \$2.5 billion in mandatory fee collections). This funding, and the increase in fees in the summer of 2007, should enable USCIS to not only prevent anticipated increases in processing times, especially for naturalization applications, but actually reduce processing times.

The Committee notes its concern regarding the increasing processing times for naturalization, adjustment of status, and other immigration applications, despite a very large increase in application fees in the summer of 2007. When USCIS published its proposed rule in February of 2007 to more than double its fees, its average processing time for naturalization applications was 5.57 months. Rather than reducing its processing times for naturalization (and other types of cases) because of additional funding through increased fees, USCIS has announced a dramatic increase in processing times, including a 16 to 18 month processing time for naturalization applications submitted after June 1, 2007. The Department of Homeland Security Inspector General recently testified before the House Committee on Appropriations that there had been a surge of applications last year to be filed before the announced fee increases, which had been a major factor in the dramatic increase in the backlog in processing. The Inspector General warned that without an increase in resources, the backlog could reach six years. The Committee urges another direct appropriation of funds for USCIS to supplement fee collections, in order to address this swelling backlog.

The Department of Homeland Security Inspector General also testified that last year's dramatic fee increases were a large part of the reason why the backlog in adjudications have increased so dramatically and warned that without an increase in resources, the backlog could reach six years.



Another significant factor in the increased processing times is the backlog in the FBI name checks that are a part of the processing. The Committee supports recent efforts by USCIS to address the FBI name check backlog, including the fee enhancement of \$12.4 million above the \$51.3 million base funding. The Committee strongly supports sufficient funding to decrease the FBI name check backlog to the extent consistent with national security. It is estimated that some 300,000 applications are awaiting FBI name checks, of which 130,000 have been pending for more than six months while 46,000 of them have been pending for more than two years.

The President's budget includes \$100 million to fund E-Verify, \$40 million above the FY 2008 level, which the Committee hopes will enable improved processing for U.S. citizens.

The President's request includes \$139 million in receipts from the premium processing fee. The Committee remains concerned that USCIS is inappropriately using its premium processing service fee receipts for modernizing the petitioning infrastructure, in violation of the law. In a 2007 hearing, USCIS admitted it has used these receipts for general processing of applications.

The Committee notes with approval the establishment of the Refugee Corps within USCIS and urges that funds be used to expand the Corps in order to process refugee adjudications more expeditiously.

## **US VISIT**

The President's budget requests \$390 million for US VISIT. The Committee questions whether this amount is sufficient to complete the exit portion of US Visit at airports and certain land ports by the end of calendar year 2008, as planned. The Committee supports sufficient funding to meet the entry-exit requirements mandated by Congress in 1996 in order to identify who is entering and exiting the U.S. and how long they stay in the country. Full implementation of US VISIT is essential to national security and effective enforcement of immigration laws.

## **REAL ID GRANTS**

The President's budget requests a total of \$50 million for REAL ID to "support implementation of the REAL ID Act to develop an information sharing and verification 'hub' capability." No money is requested to "make grants to a State to assist the State in conforming to the minimum standards set" by the REAL ID Act, and as authorized by the REAL ID Act, which some have projected may cost states \$4 billion.

## **OFFICE OF REFUGEE RESETTLEMENT (HHS)**

The Committee is deeply concerned with the Administration's request to reduce funding for the Office of Refugee Resettlement ("ORR") within the Department of Health and Human

Services. The Administration has requested \$628 million for Refugee and Entrant Assistance in FY 2009, which is \$28 million less than what was appropriated in FY 2008.

### **Transitional and Medical Services**

Of particular concern is the Administration's request to decrease funding for Transitional and Medical Services ("TAMS") for refugees and other entrants. The FY 2009 request for the TAMS program is \$287 million, which is \$9 million less than was appropriated in FY 2008.

The TAMS program is essential to meet the economic and medical needs of recently-arrived refugees, asylees, trafficking victims, and certain other vulnerable entrants. The program also serves the purpose of reducing costs to the federal government by helping refugees become employed and self-sufficient within a few months of arrival to the U.S. Under the Voluntary Agency (Matching Grant) and Wilson-Fish Programs, individual refugee resettlement agencies and several States divert refugees and other entrants from welfare dependency by providing intensive services that help refugees quickly become self-sufficient. The Matching Grant Program in particular has proved to be an efficient vehicle for helping refugees attain economic self-sufficiency without accessing public cash assistance. The Program has increased the number of refugees who have become economically self-sufficient within six months of arrival from 78% in 2004 to 83% in 2006. The program also maximizes private contributions, whereby resettlement agencies "match" federal grants with private cash and in-kind contributions on a two-to-one basis, providing an enormous amount of local community involvement in the resettlement process. The Committee believes such programs are essential and cost-effective and should receive increased funding.

The Committee also anticipates that more persons will be eligible for the above programs in FY 2009 over FY 2008. The Committee notes that the number of asylees and Cuban/Haitian entrants eligible for such programs will likely remain constant in FY 2009, but due to increased efforts by the Administration to improve infrastructure related to refugee resettlement, refugee admissions will likely be significantly higher than in FY 2008. Moreover, FY 2009 will also see a new class of entrants eligible for such programs, namely, Iraqis who qualify for Special Immigrant Visas as provided by recently-enacted legislation. An increased level of funding will be required to support services for the growing number of eligible persons in FY 2009.

### **Division for Unaccompanied Alien Children**

The Committee also considers the Administration's request of \$114 million for ORR's Division for Unaccompanied Alien Children, which exercises responsibilities for the care and placement of unaccompanied alien children while they are awaiting resolution of questions relating to their immigration status, to be insufficient. This is \$19 million less than was appropriated in FY 2008.

In FY 2007, ORR provided services to 8,200 children. ORR is expected to provide

services to at least as many children in FY 2009. An increase in funding is needed to ensure quality custodial care and services to a growing number of children; to increase the use of smaller, child-centered custodial settings that are more appropriate for children; to ensure that sufficient home studies and suitability assessments are performed; and to extend ORR's pro bono legal services pilot program, which is set to sunset this year. The Committee believes the Administration's budget request is inadequate to meet the needs of ORR's Division for Unaccompanied Alien Children in FY 2009.

## **LEGAL SERVICES CORPORATION**

The Legal Services Corporation ("LSC") is a non-profit entity established by federal statute for the purpose of providing financial support for legal assistance in noncriminal proceedings or matters to persons financially unable to afford legal assistance. For FY 2009, the Administration requests an allocation of \$311 million for LSC, an overall decrease in federal funding from the FY 2008 appropriation of \$350.49 million. The request specifically allocates: \$290.13 million for basic field programs and required audits; \$3.04 million for the Office of Inspector General; \$12.83 million for management and administration; and \$5 million for client self-help and information technology.

Pursuant to its independent budgetary authority, however, LSC requests \$471.36 million in appropriated funds for FY 2009. The request specifically allocates: \$445.2 million for basic field programs and required audits; \$3.16 million for the Office of Inspector General; \$17 million for management and administration; \$5 million for client self-help; and \$1 million for a loan repayment assistance program. The Committee is supportive of ensuring that LSC has sufficient resources to properly support its work.

## **OFFICE OF GOVERNMENT ETHICS**

The Office of Government Ethics ("OGE") is responsible for providing the overall direction of executive branch policies designed to prevent conflicts of interest and to ensure high ethical standards. For FY 2009, OGE is requesting \$13 million, an increase of \$1.25 million over the FY 2008 enacted level of \$ 11.75 million. The Committee recommends that OGE be adequately funded to fulfill its important functions.

## **U.S. COMMISSION ON CIVIL RIGHTS**

The Commission on Civil Rights was established by the Civil Rights Act of 1957, Public Law 85-315, 71 Stat. 634, to serve as a bipartisan, fact-finding agency to investigate and report on the status of civil rights. For FY 2008, the Commission was appropriated \$8.4 million. The Administration has requested an increase of \$400,000 for FY 2009, to the level of \$8.8 million. The Committee will examine the continuing mission of the Commission and its ability to perform core function in its current configuration and level of funding.

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

The Administration proposes that the Patent and Trademark Office (“PTO”) collect and spend \$2.07 billion, subject to appropriation acts, from fee collections to cover operating expenses, including the payment of retirement benefits for employees. This amount is derived from user fees paid by patent and trademark applicants or from fees for other services provided by the Office. No taxpayer funds are expected or recommended.

The Committee supports full-funding of the PTO and the elimination of any incentive to use agency revenues for non-PTO purposes. All revenue generated under the new fee schedule, adopted as part of the Consolidated Appropriations Act of 2005, is necessary to implement the PTO 21st Century Strategic Business Plan, including proposed quality initiatives, government initiatives, and enhanced patent processing. The Committee will continue to work with the House Leadership and the Committee on Appropriations to ensure the end the practice of user-fee diversion without compromising the ability of the Committee on Appropriations to conduct oversight of PTO activities.

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

The Copyright Office budget is a separate appropriation in the overall budget for the Library of Congress. The Copyright Office administers the U.S. copyright laws, provides copyright expertise to the Congress and executive branch agencies, and actively promotes international protection for intellectual property created by U.S. citizens. The Committee supports the Copyright Office's basic appropriations request of \$51.59 million for FY 2009.

## **STATE JUSTICE INSTITUTE**

Congress established the State Justice Institute (“SJI”) as a private nonprofit corporation in 1984. Its purpose is to improve judicial administration in state courts. SJI accomplishes this goal by providing funds to state courts and other national organizations or non-profits that support state courts.

SJI also fosters cooperation with the federal judiciary in areas of mutual concern. Since its creation in 1987, the Institute has awarded more than \$125 million in grants to support more than 1,000 projects. Pursuant to oversight legislation passed in the 107th Congress, the Attorney General, in consultation with the Federal Judicial Center, conducted a review of SJI operations and reported his findings to Congress. In sum, the Attorney General noted that the Institute had been “effective” and had complied with its statutory mission. He further observed that “support for state court innovation and improvement is a federal interest.”

The 108th Congress reaffirmed its commitment to SJI by authorizing its operations through FY 2008 pursuant to the terms of Public Law 108-372.

For FY 2009, the Administration requests for SJI \$5.389 million, which is \$1.629 million above the FY 2008 enacted level of \$3.76 million.

### OVERSIGHT OF GOVERNMENT PERFORMANCE

Since the beginning of the 110<sup>th</sup> Congress, the Judiciary Committee and its subcommittees have undertaken a number of oversight efforts regarding the performance of the Department of Justice and other entities within the Committee's jurisdiction, to promote appropriate law enforcement and administration of justice, as well as to improve government performance. To that end, the Committee has taken a number of actions pursuant to these oversight efforts. Due to the nature of these oversight efforts, the Committee has no additional performance recommendations to the Budget Committee at this time.